# 2011

# SENATE APPROPRIATIONS – HIGHER EDUCATION

# MINUTES

## NORTH CAROLINA GENERAL ASSEMBLY

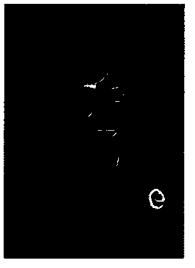
## SENATE APPROPRIATIONS SUBCOMMITTEE ON EDUCATION
## 2011 – 2012 SESSION

**Senator Tom Apodaca**
**Chair**

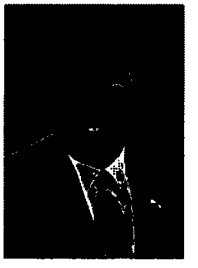
**Senator Jean Preston**
**Chair**

**Senator Jerry W. Tillman**
**Chair**

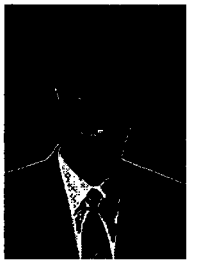
**Senator Charlie Smith Dannelly**



**Senator Linda Garrou**



**Senator Bob Rucho**



**Senator Dan Soucek**

# NORTH CAROLINA GENERAL ASSEMBLY

## SENATE APPROPRIATIONS SUBCOMMITTEE ON EDUCATION
## 2011 – 2012 SESSION

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| Jerry W. Tillman – Chair | 627 LOB | (919) 733-5870 | Jerry.Tillman@ncleg.net | Yvonne Hall |
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# MINUTES
# SENATE APPROPRIATIONS
# SUBCOMMITTEE ON EDUCATION/HIGHER EDUCATION
## Senator Jean Preston, Co-Chairman, Presiding
## Tuesday, May 10, 2011

The Senate Appropriations Subcommittee on Education/Higher Education met in Room 421 of the Legislative Office Building on Tuesday, May 10, 2011, at 8:30a.m. The following Senators were present: Jean Preston, Co-Chair, Jerry Tillman, Co-Chair, Tom Apodaca, Co-Chair, Charlie S. Dannelly, Linda Garrou, and Dan Soucek. Members of the Education Fiscal Research Division (FRD) team were also present.

Sen. Preston, The Chair called the meeting to order and recognized the Sergeant at Arms and Pages. She then gave an overview of the agenda, which was essentially a review of House Bill 200, Appropriations Act of 2011.

The Chair recognized Andrea Poole of the (FRD) to address the committee. Ms. Poole came forward for her presentation of the comparison of the Governor, House, and Senate Budget Targets. (See attached handout)

Sen. Garrou was recognized by the Chair for several questions/comments. Specifically that she is disappointed that this committee is not planning to meet longer on an issue as important as the budget. The Chair made note of her concerns.

The Chair recognized Brian Matteson of the (FRD) to address the committee. He went through a line by line summary of the House Money Report as related to public schools.

Sen. Garrou was recognized by the Chair for several questions/comments, as was Sen. Dannelly. Sen. Garrou expressed that this budget takes us back to 2007 figures. Also, she lamented that there is no proposed funding in the school technology fund, "an area that is our future." Sen. Dannelly noted the 46% proposed cut to instructional supplies, as well as the taking away of assistant principals. The Chair noted their concerns.

The Chair then recognized Andrea Poole of the (FRD) for a review of the House budget for community colleges. She noted that there is full funding for enrollment growth and equipment.

The Chair allowed for questions and comments. Sen. Apodaca asked if it were true that the community colleges brought suggested cuts to our attention. Andrea indicated that this is true, and gave the example of Wilson's need for equipment funding was acknowledged as not being necessary any further at this time. Sen. Tillman commented that the community colleges are on board with the budget with the possible exception to the reduction in lottery scholarships.

There were other questions and comments by Sen. Dannelly and Sen. Garrou.

The Chair then recognized Denise Harb of the (FRD) to discuss university funding in the budget. She noted that enrollment growth is fully funded in year one but not in year two.

The Chair then recognized Andrea Poole of the (FRD) to review financial aid in the university system part of the House budget.

The Chair allowed for questions and comments from the members. Sen. Soucek asked about the references that had been made to this budget "going back to 2007 numbers," and inquired as to the possibility of seeing the numbers from 2007. Staff indicated that they would provide 2007 numbers at the next meeting.

The meeting adjourned at 10:00a.m.

Respectfully submitted,

Senator Jean Preston, Co-Chair

Mark Shiver, Committee Clerk

# Senate Appropriations on Education/Higher Education Committee
# Tuesday, May 10, 2011, 8:30 AM
# 421 LOB

## AGENDA

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills:** **Review HB 200 Appropriations Act of 2011**

**Presentations**

**Other Business**

**Adjournment**

## Senate Education Committee on Education/Higher Education Target Comparison

### FY 2011-12

| | Education Total | Public Schools | Community Colleges | UNC |
|---|---|---|---|---|
| FY 2010-11 Certified Budget | 11,188,681,939 | 7,355,920,753 | 1,087,875,214 | 2,744,885,972 |
| FY 2011-12 Base Budget | 11,913,511,629 | 7,923,543,951 | 1,102,475,214 | 2,887,492,464 |
| **Governor's Budget** | | | | |
| Proposed Changes | (666,333,360) | (350,831,039) | (85,845,692) | (229,656,629) |
| Proposed Revised Budget | 11,247,178,269 | 7,572,712,912 | 1,016,629,522 | 2,657,835,835 |
| Percent Change vs 11-12 Base | -5.59% | -4.43% | -7.79% | -7.95% |
| Percent Change vs 10-11 Certified | 0.52% | 2.95% | -6.55% | -3.17% |
| **House Budget** (Does not include $65 million of More at Four Funding Transferred to DHHS) | | | | |
| Proposed Changes | (1,252,113,929) | (694,040,243) | (110,956,354) | (447,117,332) |
| Proposed Revised Budget | 10,661,397,700 | 7,229,503,708 | 991,518,860 | 2,440,375,132 |
| Percent Change vs 11-12 Base | -10.51% | -8.76% | -10.06% | -15.48% |
| Percent Change vs 10-11 Certified | -4.71% | -1.72% | -8.86% | -11.09% |
| Percent Change vs Governor's Budget | -5.21% | -4.53% | -2.47% | -8.18% |
| **Senate Target** | | | | |
| Proposed Changes | (1,292,000,000) | (800,000,000) | (132,000,000) | (360,000,000) |
| Proposed Revised Budget | 10,621,511,629 | 7,123,543,951 | 970,475,214 | 2,527,492,464 |
| Percent Change vs 11-12 Base | -10.84% | -10.10% | -11.97% | -12.47% |
| Percent Change vs 10-11 Certified | -5.07% | -3.16% | -10.79% | -7.92% |
| Percent Change vs Governor's Budget | -5.56% | -5.93% | -4.54% | -4.90% |

## Senate Education Committee on Education/Higher Education Target Comparison

### FY 2012-13

| | Education Total | Public Schools | Community Colleges | UNC |
|---|---|---|---|---|
| | | | | |
| FY 2010-11 Certified Budget | 11,188,681,939 | 7,355,920,753 | 1,087,875,214 | 2,744,885,972 |
| | | | | |
| FY 2012-13 Base Budget | 11,912,749,551 | 7,923,543,951 | 1,102,475,214 | 2,886,730,386 |
| | | | | |
| **Governor's Budget** | | | | |
| Proposed Changes | (621,413,103) | (324,975,417) | (80,162,684) | (216,275,002) |
| Proposed Revised Budget | 11,291,336,448 | 7,598,568,534 | 1,022,312,530 | 2,670,455,384 |
| Percent Change vs 12-13 Base | -5.22% | -4.10% | -7.27% | -7.49% |
| Percent Change vs 10-11 Certified | 0.92% | 3.30% | -6.03% | -2.71% |
| | | | | |
| **House Budget** (Does not include $65 million of More at Four Funding Transferred to DHHS) | | | | |
| Proposed Changes | (1,228,313,744) | (670,358,180) | (110,956,354) | (446,999,210) |
| Proposed Revised Budget | 10,684,435,807 | 7,253,185,771 | 991,518,860 | 2,439,731,176 |
| Percent Change vs 11-12 Base | -10.31% | -8.46% | -10.06% | -15.48% |
| Percent Change vs 10-11 Certified | -4.51% | -1.40% | -8.86% | -11.12% |
| Percent Change vs Governor's Budget | -5.37% | -4.55% | -3.01% | -8.64% |
| | | | | |
| **Senate Target** | | | | |
| Proposed Changes | (1,292,000,000) | (800,000,000) | (132,000,000) | (360,000,000) |
| Proposed Revised Budget | 10,620,749,551 | 7,123,543,951 | 970,475,214 | 2,526,730,386 |
| Percent Change vs 11-12 Base | -10.85% | -10.10% | -11.97% | -12.47% |
| Percent Change vs 10-11 Certified | -5.08% | -3.16% | -10.79% | -7.95% |
| Percent Change vs Governor's Budget | -5.94% | -6.25% | -5.07% | -5.38% |

# SENATE APPROPRIATIONS COMMITTEE

## REPORT
ON THE
## CONTINUATION, EXPANSION
AND
## CAPITAL BUDGETS

**House Bill 200**

**Proposed Committee Substitute**

**May 24th, 2011**

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# General Fund Availability Statement

| | | FY 2011-12 | FY 2012-13 |
|---|---|---|---|
| 1 | Unappropriated Balance Remaining | | 72,311,073 |
| 2 | Ending Unreserved Fund Balance for FY 2009-10 | 236,902,394 | 0 |
| 3 | Anticipated Reversions for FY 2010-11 - Session Law 2011-15 (S.B. 109) | 537,740,799 | 0 |
| 4 | Anticipated Overcollections from FY 2010-11 | 180,800,000 | 0 |
| 5 | Repayment of Medicaid Receipts in FY 2010-11 | (125,000,000) | 0 |
| 6 | **Statutory Earmarks:** | | |
| 7 | Savings Reserve Account | (202,994,340) | 0 |
| 8 | Repairs and Renovations Reserve Account | (202,994,339) | 0 |
| 9 | **Beginning Unreserved Fund Balance** | **424,454,514** | **72,311,073** |
| 10 | **Revenues Based on Existing Tax Structure** | **18,129,800,000** | **19,181,900,000** |
| 11 | **Non-tax Revenues** | | |
| 12 | Investment Income | 59,400,000 | 76,700,000 |
| 13 | Judicial Fees | 217,800,000 | 217,800,000 |
| 14 | Disproportionate Share | 100,000,000 | 100,000,000 |
| 15 | Insurance | 71,400,000 | 73,500,000 |
| 16 | Other Non-Tax Revenues | 182,500,000 | 182,500,000 |
| 17 | Highway Trust Fund/Use Tax Reimbursement Transfer | 41,500,000 | 27,600,000 |
| 18 | Highway Fund Transfer | 20,230,000 | 24,080,000 |
| 19 | **Subtotal Non-tax Revenues** | **692,830,000** | **702,180,000** |
| 20 | **Total General Fund Availability** | **19,247,084,514** | **19,956,391,073** |
| 21 | **Adjustments to Availability: 2011 Session** | | |
| 22 | Loss of Estate Tax | (57,100,000) | (72,200,000) |
| 23 | Jobs Package | (186,400,000) | (485,300,000) |
| 24 | Repeal Deduction for Sale of a Manufactured Home Community to | | |
| 25 | Manufactured Homeowners | 100,000 | 100,000 |
| 26 | Repeal Deduction for Severance Wages | 16,000,000 | 16,400,000 |
| 27 | Repeal Credit for Recycling Oyster Shells | 100,000 | 100,000 |
| 28 | Repeal Energy Star Tax Holiday | 1,900,000 | 2,000,000 |
| 29 | Repeal Sales Tax Exemption for Nutritional Supplements Sold by | | |
| 30 | Chiropractors | 300,000 | 400,000 |
| 31 | Repeal Wildlife Resources Commission Sales Tax Earmark | 22,970,000 | 23,920,000 |
| 32 | Suspend Corporate Income Tax Earmark (Public School Construction) | 0 | 74,750,000 |
| 33 | Increase in Judicial Fees | 60,986,955 | 60,986,955 |
| 34 | Increase Investment Company Notice Filing Fee | 1,600,000 | 1,600,000 |
| 35 | Increase Parking Fees for Visitors | 550,000 | 550,000 |
| 36 | Loss of Revenue from the Town of Butner | (1,213,235) | (1,213,235) |
| 37 | Transfer from E-Commerce Reserve Fund | 4,483,526 | 0 |
| 38 | Divert Funds from Parks & Recreation Trust Fund | 4,217,500 | 0 |
| 39 | Divert Funds from Recreational/ Natural Heritage Trust Fund | 4,500,000 | 0 |
| 40 | Transfer from Highway Fund for State Highway Patrol | 193,585,434 | 189,859,507 |
| 41 | Transfer from Highway Trust Fund for School Bus Replacement | 35,223,642 | 0 |
| 42 | Transfer from Mercury Prevention Pollution Fund | 125,000 | 0 |
| 43 | Transfer from Commerce - Enterprise Fund | 250,000 | |
| 44 | Divert Funds from Scrap Tire Disposal Account | 1,134,495 | 0 |
| 45 | Divert Funds from White Goods Management Account | 1,131,342 | 0 |
| 46 | Diversion of Golden LEAF Funds | 67,563,760 | 67,563,760 |
| 47 | Tobacco Trust Fund Master Settlement Agreement Funds | 8,334,360 | 8,790,386 |
| 48 | Health and Wellness Trust Fund Master Settlement Agreement Funds | 16,334,360 | 16,790,386 |
| 49 | Transfer Health and Wellness Trust Funds to Public Health | 32,904,411 | 0 |
| 50 | Department of Revenue - Accounts Receivable Program | 15,000,000 | 15,000,000 |
| 51 | Medicaid Disproportionate Share Receipts | 15,000,000 | 15,000,000 |
| 52 | Adjust Transfer from Insurance Regulatory Fund | (742,348) | (742,348) |
| 53 | Adjust Transfer from Treasurer's Office | (3,881,172) | (3,916,453) |
| 54 | **Subtotal Adjustments to Availability: 2011 Session** | **254,958,030** | **(69,561,042)** |
| 55 | **Revised General Fund Availability** | **19,502,042,544** | **19,886,830,031** |
| 56 | Less General Fund Appropriations | (19,429,731,471) | (19,886,830,031) |
| 57 | **Unappropriated Balance Remaining** | **72,311,073** | **0** |

# SUMMARY:

# GENERAL FUND APPROPRIATIONS

| SUMMARY OF GENERAL FUND APPROPRIATIONS<br>2011 Legislative Session: Fiscal Year 2011-12 | | | | | | |
|---|---|---|---|---|---|---|
| | | Legislative Adjustments | | | | Revised |
| | Continuation Budget | Recurring Adjustments | Nonrecurring Adjustments | Net Changes | FTE Changes | Appropriation 2011-12 |
| **Education** | | | | | | |
| Community Colleges | 1,102,475,214 | (112,569,798) | (7,600,000) | (120,169,798) | (25.00) | 982,305,416 |
| Public Education | 7,923,543,951 | (618,571,148) | (78,216,861) | (696,788,009) | (139.75) | 7,226,755,942 |
| University System | 2,887,492,464 | (351,546,259) | (7,453,741) | (359,000,000) | 309.80 | 2,528,492,464 |
| **Total Education** | **11,913,511,629** | **(1,082,687,205)** | **(93,270,602)** | **(1,175,957,807)** | **145.05** | **10,737,553,822** |
| | | | | | | |
| **Health and Human Services** | | | | | | |
| Central Management and Support | 70,229,335 | (30,817,345) | 5,599,390 | (25,217,955) | (288.00) | 45,011,380 |
| Aging and Adult Services | 37,419,667 | (2,060,000) | 0 | (2,060,000) | 0.00 | 35,359,667 |
| Blind and Deaf / Hard of Hearing Services | 8,389,110 | (190,961) | (1,000,000) | (1,190,961) | 0.00 | 7,198,149 |
| Child Development | 261,759,600 | 10,695,977 | (6,352,644) | 4,343,333 | 0.00 | 266,102,933 |
| Health Service Regulation | 17,925,590 | 0 | (1,792,559) | (1,792,559) | 0.00 | 16,133,031 |
| Medical Assistance | 3,314,539,538 | (370,091,158) | (16,146,384) | (386,237,542) | (30.00) | 2,928,301,996 |
| Mental Health, Dev. Disabilities and Sub. Abuse | 723,675,112 | (50,196,885) | (25,000,000) | (75,196,885) | (7.00) | 648,478,227 |
| NC Health Choice | 88,373,806 | (8,921,489) | 0 | (8,921,489) | 0.00 | 79,452,317 |
| Public Health | 161,930,589 | (7,958,188) | 32,904,411 | 24,946,223 | (61.00) | 186,876,812 |
| Social Services | 202,245,063 | (17,958,411) | 0 | (17,958,411) | (2.00) | 184,286,652 |
| Vocational Rehabilitation | 41,252,238 | (2,058,522) | (2,067,928) | (4,126,450) | (5.00) | 37,125,788 |
| **Total Health and Human Services** | **4,927,739,648** | **(479,556,982)** | **(13,855,714)** | **(493,412,696)** | **(393.00)** | **4,434,326,952** |
| | | | | | | |
| **Justice and Public Safety** | | | | | | |
| Correction | 1,421,644,768 | (71,332,902) | (12,495,520) | (83,828,422) | (499.00) | 1,337,816,346 |
| Crime Control & Public Safety | 34,175,427 | 213,752,200 | 0 | 213,752,200 | 3,037.00 | 247,927,627 |
| Judicial Department | 477,189,575 | (42,131,186) | 1,184,693 | (40,946,493) | (399.50) | 436,243,082 |
| Judicial - Indigent Defense | 122,770,246 | (11,037,369) | 0 | (11,037,369) | (11.40) | 111,732,877 |
| Justice | 89,670,944 | (37,180,522) | (160,125) | (37,340,647) | (888.81) | 52,330,297 |
| Juvenile Justice & Delinquency Prevention | 151,295,187 | (19,563,395) | 3,861,900 | (15,701,495) | (278.60) | 135,593,692 |
| **Total Justice and Public Safety** | **2,296,746,147** | **32,506,826** | **(7,609,052)** | **24,897,774** | **959.69** | **2,321,643,921** |

| SUMMARY OF GENERAL FUND APPROPRIATIONS<br>2011 Legislative Session: Fiscal Year 2011-12 | | | | | | |
|---|---|---|---|---|---|---|
| | | Legislative Adjustments | | | | Revised |
| | Continuation Budget | Recurring Adjustments | Nonrecurring Adjustments | Net Changes | FTE Changes | Appropriation 2011-12 |
| **Natural and Economic Resources** | | | | | | |
| Agriculture and Consumer Services | 61,754,014 | (2,366,555) | 12,096,590 | 9,730,035 | (17.00) | 71,484,049 |
| Commerce | 38,907,381 | (7,846,258) | 17,365,599 | 9,519,341 | (20.00) | 48,426,722 |
| Commerce - State Aid | 31,169,289 | (4,467,305) | 500,000 | (3,967,305) | 0.00 | 27,201,984 |
| Environment and Natural Resources | 188,972,401 | (21,763,414) | 554,373 | (21,209,041) | (132.27) | 167,763,360 |
| Clean Water Mgmt. Trust Fund | 100,000,000 | (87,500,000) | 0 | (87,500,000) | 0.00 | 12,500,000 |
| Labor | 16,842,679 | (1,005,792) | 0 | (1,005,792) | (9.00) | 15,836,887 |
| NC Biotechnology Center | 19,501,900 | (2,925,285) | 0 | (2,925,285) | 0.00 | 16,576,615 |
| Rural Economic Development Center | 22,640,814 | (3,396,122) | 20,000,000 | 16,603,878 | 0.00 | 39,244,692 |
| Wildlife Resources Commission | 0 | 15,221,179 | 778,821 | 16,000,000 | 0.00 | 16,000,000 |
| **Total Natural & Economic Resources** | **479,788,478** | **(116,049,552)** | **51,295,383** | **(64,754,169)** | **(178.27)** | **415,034,309** |
| **General Government** | | | | | | |
| Administration | 69,700,026 | (7,467,209) | 0 | (7,467,209) | (94.52) | 62,232,817 |
| Auditor | 13,063,656 | (1,206,082) | 0 | (1,206,082) | (13.00) | 11,857,574 |
| Cultural Resources | 72,664,633 | (11,670,024) | 0 | (11,670,024) | (122.51) | 60,994,609 |
| Cultural Resources - Roanoke Island Comm. | 2,406,982 | (1,203,491) | 0 | (1,203,491) | 0.00 | 1,203,491 |
| General Assembly | 54,593,047 | (8,906,058) | 7,572,506 | (1,333,552) | (9.00) | 53,259,495 |
| Governor | 6,189,478 | (1,302,417) | 0 | (1,302,417) | (17.00) | 4,887,061 |
| Housing Finance Agency | 13,877,996 | (3,204,945) | 0 | (3,204,945) | 0.00 | 10,673,051 |
| Insurance | 33,458,756 | 2,935,165 | 0 | 2,935,165 | (3.00) | 36,393,921 |
| Insurance - Worker's Compensation Fund | 4,500,000 | (706,000) | (1,500,000) | (2,206,000) | 0.00 | 2,294,000 |
| Lieutenant Governor | 954,868 | (179,623) | 0 | (179,623) | 1.00 | 775,245 |
| Office of Administrative Hearings | 4,328,822 | 655,049 | 0 | 655,049 | 8.68 | 4,983,871 |
| Revenue | 88,370,399 | (10,170,861) | 0 | (10,170,861) | (106.00) | 78,199,538 |
| Secretary of State | 11,076,972 | (422,409) | 0 | (422,409) | (4.00) | 10,654,563 |
| State Board of Elections | 6,189,011 | (1,002,408) | 0 | (1,002,408) | (14.00) | 5,186,603 |
| State Budget and Management (OSBM) | 6,963,796 | (1,115,133) | 0 | (1,115,133) | (6.00) | 5,848,663 |
| OSBM - Special Appropriations | 5,934,311 | (5,493,699) | 1,500,000 | (3,993,699) | (13.00) | 1,940,612 |
| State Controller | 32,517,077 | (3,539,584) | (608,536) | (4,148,120) | (18.50) | 28,368,957 |
| Treasurer - Operations | 10,538,203 | (3,881,172) | 0 | (3,881,172) | (36.00) | 6,657,031 |
| Treasurer - Fire/Rescue Retirement | 17,812,114 | 0 | 0 | 0 | 0.00 | 17,812,114 |
| **Total General Government** | **455,140,147** | **(57,880,901)** | **6,963,970** | **(50,916,931)** | **(446.85)** | **404,223,216** |

| SUMMARY OF GENERAL FUND APPROPRIATIONS<br>2011 Legislative Session: Fiscal Year 2011-12 | | | | | | |
|---|---|---|---|---|---|---|
| | | Legislative Adjustments | | | | Revised |
| | Continuation Budget | Recurring Adjustments | Nonrecurring Adjustments | Net Changes | FTE Changes | Appropriation 2011-12 |
| **Debt Service and Statewide Reserves** | | | | | | |
| **Debt Service** | | | | | | |
| Interest / Redemption | 705,905,183 | (16,947,995) | 0 | (16,947,995) | 0.00 | 688,957,188 |
| Federal Reimbursement | 1,616,380 | 0 | 0 | 0 | 0.00 | 1,616,380 |
| **Subtotal Debt Service** | **707,521,563** | **(16,947,995)** | **0** | **(16,947,995)** | **0.00** | **690,573,568** |
| **Statewide Reserves** | | | | | | |
| Contingency and Emergency Fund | 5,000,000 | 0 | 0 | 0 | | 5,000,000 |
| State Retirement System Contributions | 0 | 297,400,000 | | 297,400,000 | | 297,400,000 |
| Judicial Retirement System Contribution | 0 | 7,900,000 | 0 | 7,900,000 | | 7,900,000 |
| Firemen & Rescue Squad Workers Pension Fund | | 5,800,000 | 0 | 5,800,000 | | 5,800,000 |
| National Guard Pension Fund | | 263,000 | 0 | 263,000 | | 263,000 |
| State Health Plan | 0 | 7,119,541 | | 7,119,541 | | 7,119,541 |
| Information Technology Fund | 7,840,000 | (1,537,574) | (1,844,284) | (3,381,858) | (3.00) | 4,458,142 |
| Job Development Investment Grants (JDIG) | 27,400,000 | 0 | (12,000,000) | (12,000,000) | | 15,400,000 |
| Continuation Review Reserve | | | | | | |
| Review of Compensation Plans | | | 2,000,000 | 2,000,000 | | 2,000,000 |
| Automated Fraud Detection Development | | | 1,000,000 | 1,000,000 | | 1,000,000 |
| Controller- Fraud Detection Development | | | 500,000 | 500,000 | | 500,000 |
| Severance Expenditure Reserve | | | 75,000,000 | 75,000,000 | | 75,000,000 |
| **Subtotal Statewide Reserves** | **40,240,000** | **316,944,967** | **64,655,716** | **381,600,683** | **(3.00)** | **421,840,683** |
| **Total Reserves and Debt Service** | **747,761,563** | **299,996,972** | **64,655,716** | **364,652,688** | **(3.00)** | **1,112,414,251** |
| **Total General Fund for Operations** | **20,820,687,612** | **(1,403,670,842)** | **8,179,701** | **(1,395,491,141)** | **83.62** | **19,425,196,471** |
| **Capital Improvements** | | | | | | |
| Water Resources Development Projects | 0 | 0 | 4,535,000 | 4,535,000 | 0.00 | 4,535,000 |
| **Total Capital Improvements** | **0** | **0** | **4,535,000** | **4,535,000** | **0.00** | **4,535,000** |
| **Total General Fund Budget** | **20,820,687,612** | **(1,403,670,842)** | **12,714,701** | **(1,390,956,141)** | **83.62** | **19,429,731,471** |

| SUMMARY OF GENERAL FUND APPROPRIATIONS<br>2011 Legislative Session: Fiscal Year 2012-13 | | | | | | |
|---|---|---|---|---|---|---|
| | | Legislative Adjustments | | | | Revised |
| | Continuation Budget | Recurring Adjustments | Nonrecurring Adjustments | Net Changes | FTE Changes | Appropriation 2012-13 |
| **Education** | | | | | | |
| Community Colleges | 1,102,475,214 | (120,169,798) | 0 | (120,169,798) | (25.00) | 982,305,416 |
| Public Education | 7,923,543,951 | (677,139,628) | (54,872,023) | (732,011,651) | (139.75) | 7,191,532,300 |
| University System | 2,886,730,386 | (340,988,118) | (19,011,882) | (360,000,000) | 205.80 | 2,526,730,386 |
| **Total Education** | **11,912,749,551** | **(1,138,297,544)** | **(73,883,905)** | **(1,212,181,449)** | **41.05** | **10,700,568,102** |
| | | | | | | |
| **Health and Human Services** | | | | | | |
| Central Management and Support | 70,229,335 | (30,817,345) | 0 | (30,817,345) | (288.00) | 39,411,990 |
| Aging and Adult Services | 37,419,667 | (2,060,000) | 0 | (2,060,000) | 0.00 | 35,359,667 |
| Blind and Deaf / Hard of Hearing Services | 8,372,886 | (190,961) | (1,000,000) | (1,190,961) | 0.00 | 7,181,925 |
| Child Development | 261,759,600 | 10,695,977 | (6,352,644) | 4,343,333 | 0.00 | 266,102,933 |
| Health Service Regulation | 17,925,590 | 0 | (1,792,559) | (1,792,559) | 0.00 | 16,133,031 |
| Medical Assistance | 3,314,539,538 | (385,210,493) | (24,739,541) | (409,950,034) | (40.00) | 2,904,589,504 |
| Mental Health, Dev. Disabilities and Sub. Abuse | 723,675,112 | (50,196,885) | 0 | (50,196,885) | (7.00) | 673,478,227 |
| NC Health Choice | 88,373,806 | (4,655,941) | 0 | (4,655,941) | 0.00 | 83,717,865 |
| Public Health | 161,930,589 | (7,958,188) | 0 | (7,958,188) | (61.00) | 153,972,401 |
| Social Services | 202,245,063 | (17,958,411) | 0 | (17,958,411) | (2.00) | 184,286,652 |
| Vocational Rehabilitation | 41,654,578 | (2,058,522) | (2,067,928) | (4,126,450) | (5.00) | 37,528,128 |
| **Total Health and Human Services** | **4,928,125,764** | **(490,410,769)** | **(35,952,672)** | **(526,363,441)** | **(403.00)** | **4,401,762,323** |
| | | | | | | |
| **Justice and Public Safety** | | | | | | |
| Correction | 1,418,867,332 | (59,302,927) | (11,153,612) | (70,456,539) | (439.00) | 1,348,410,793 |
| Crime Control & Public Safety | 34,175,427 | 236,029,495 | 0 | 236,029,495 | 3,037.00 | 270,204,922 |
| Judicial Department | 477,189,575 | (43,044,434) | (1,681,000) | (44,725,434) | (488.50) | 432,464,141 |
| Judicial - Indigent Defense | 122,770,246 | (11,609,781) | 0 | (11,609,781) | (11.40) | 111,160,465 |
| Justice | 89,670,944 | (65,133,836) | 0 | (65,133,836) | (888.81) | 24,537,108 |
| Juvenile Justice & Delinquency Prevention | 151,295,187 | (20,154,622) | 0 | (20,154,622) | (278.60) | 131,140,565 |
| **Total Justice and Public Safety** | **2,293,968,711** | **36,783,895** | **(12,834,612)** | **23,949,283** | **930.69** | **2,317,917,994** |

| SUMMARY OF GENERAL FUND APPROPRIATIONS<br>2011 Legislative Session: Fiscal Year 2012-13 | | | | | | |
|---|---|---|---|---|---|---|
| | | Legislative Adjustments | | | | Revised |
| | Continuation Budget | Recurring Adjustments | Nonrecurring Adjustments | Net Changes | FTE Changes | Appropriation 2012-13 |
| **Natural and Economic Resources** | | | | | | |
| Agriculture and Consumer Services | 61,754,014 | (2,366,555) | 8,790,386 | 6,423,831 | (23.00) | 68,177,845 |
| Commerce | 38,907,381 | (7,674,952) | 0 | (7,674,952) | (23.00) | 31,232,429 |
| Commerce - State Aid | 31,169,289 | (4,127,894) | 0 | (4,127,894) | 0.00 | 27,041,395 |
| Environment and Natural Resources | 188,972,401 | (20,221,445) | (6,000,000) | (26,221,445) | (133.27) | 162,750,956 |
| Clean Water Mgmt. Trust Fund | 100,000,000 | (87,500,000) | 0 | (87,500,000) | 0.00 | 12,500,000 |
| Labor | 16,842,679 | (1,005,792) | 0 | (1,005,792) | (9.00) | 15,836,887 |
| NC Biotechnology Center | 19,501,900 | (2,925,285) | 0 | (2,925,285) | 0.00 | 16,576,615 |
| Rural Economic Development Center | 22,640,814 | (3,396,122) | 20,000,000 | 16,603,878 | 0.00 | 39,244,692 |
| Wildlife Resources Commission | 0 | 15,221,179 | 0 | 15,221,179 | 0.00 | 15,221,179 |
| **Total Natural and Economic Resources** | **479,788,478** | **(113,996,866)** | **22,790,386** | **(91,206,480)** | **(188.27)** | **388,581,998** |
| | | | | | | |
| **General Government** | | | | | | |
| Administration | 69,700,026 | (5,563,079) | 0 | (5,563,079) | (94.52) | 64,136,947 |
| Auditor | 13,063,656 | (2,387,621) | 0 | (2,387,621) | (26.00) | 10,676,035 |
| Cultural Resources | 72,664,633 | (14,407,792) | 0 | (14,407,792) | (165.62) | 58,256,841 |
| Cultural Resources - Roanoke Island Comm. | 2,406,982 | (2,406,982) | 0 | (2,406,982) | 0.00 | 0 |
| General Assembly | 54,593,047 | (7,488,839) | 3,000,000 | (4,488,839) | (47.75) | 50,104,208 |
| Governor | 6,189,478 | (1,302,417) | 0 | (1,302,417) | (17.00) | 4,887,061 |
| Housing Finance Agency | 13,877,996 | (3,204,945) | 0 | (3,204,945) | 0.00 | 10,673,051 |
| Insurance | 33,458,756 | 2,935,165 | 0 | 2,935,165 | (3.00) | 36,393,921 |
| Insurance - Worker's Compensation Fund | 4,500,000 | (1,876,346) | 0 | (1,876,346) | 0.00 | 2,623,654 |
| Lieutenant Governor | 954,868 | (179,623) | 0 | (179,623) | 1.00 | 775,245 |
| Office of Administrative Hearings | 4,328,822 | 655,049 | 0 | 655,049 | 8.68 | 4,983,871 |
| Revenue | 88,370,399 | (10,170,861) | 0 | (10,170,861) | (106.00) | 78,199,538 |
| Secretary of State | 11,076,972 | (422,409) | 0 | (422,409) | (4.00) | 10,654,563 |
| State Board of Elections | 6,189,011 | (1,062,408) | 0 | (1,062,408) | (14.00) | 5,126,603 |
| State Budget and Management (OSBM) | 6,963,796 | (1,115,133) | 0 | (1,115,133) | (6.00) | 5,848,663 |
| OSBM - Special Appropriations | 5,934,311 | (5,493,699) | 0 | (5,493,699) | (13.00) | 440,612 |
| State Controller | 32,517,077 | (3,539,584) | (608,536) | (4,148,120) | (18.50) | 28,368,957 |
| Treasurer - Operations | 10,538,203 | (3,916,453) | 0 | (3,916,453) | (36.00) | 6,621,750 |
| Treasurer - Fire/Rescue Retirement | 17,812,114 | 0 | 0 | 0 | 0.00 | 17,812,114 |
| **Total General Government** | **455,140,147** | **(60,947,977)** | **2,391,464** | **(58,556,513)** | **(541.71)** | **396,583,634** |

| SUMMARY OF GENERAL FUND APPROPRIATIONS<br>2011 Legislative Session: Fiscal Year 2012-13 | | | | | | |
|---|---|---|---|---|---|---|
| | | Legislative Adjustments | | | | Revised |
| | Continuation Budget | Recurring Adjustments | Nonrecurring Adjustments | Net Changes | FTE Changes | Appropriation 2012-13 |
| **Debt Service and Statewide Reserves** | | | | | | |
| **Debt Service:** | | | | | | |
| Interest / Redemption | 705,905,183 | 54,079,791 | 0 | 54,079,791 | | 759,984,974 |
| Federal Reimbursement | 1,616,380 | 0 | 0 | 0 | | 1,616,380 |
| **Subtotal Debt Service** | **707,521,563** | **54,079,791** | **0** | **54,079,791** | **0.00** | **761,601,354** |
| | | | | | | |
| **Statewide Reserves:** | | | | | | |
| Contingency and Emergency Fund | 5,000,000 | 0 | 0 | 0 | | 5,000,000 |
| State Retirement System Contributions | 0 | 404,200,000 | 0 | 404,200,000 | | 404,200,000 |
| Judicial Retirement System Contribution | 0 | 9,000,000 | 0 | 9,000,000 | | 9,000,000 |
| Firemen & Rescue Squad Workers Pension Fund | | 6,900,000 | 0 | 6,900,000 | | 6,900,000 |
| National Guard Pension Fund | | 523,000 | 0 | 523,000 | | 523,000 |
| State Health Plan | 0 | 102,151,104 | 0 | 102,151,104 | | 102,151,104 |
| Information Technology Fund | 7,840,000 | 162,426 | (1,844,284) | (1,681,858) | (3.00) | 6,158,142 |
| Job Development Investment Grants (JDIG) | 27,400,000 | 0 | 0 | 0 | | 27,400,000 |
| Continuation Review Reserve | | | 22,982,380 | 22,982,380 | | 22,982,380 |
| Performance Pay Reserve | 0 | 328,000,000 | | 328,000,000 | | 328,000,000 |
| Automated Fraud Detection Development | | | 7,000,000 | 7,000,000 | | 7,000,000 |
| Controller- Fraud Detection Development | | | 500,000 | 500,000 | | 500,000 |
| **Subtotal Statewide Reserves** | **40,240,000** | **850,936,530** | **28,638,096** | **879,574,626** | **(3.00)** | **919,814,626** |
| | | | | | | |
| **Total Reserves and Debt Service** | **747,761,563** | **905,016,321** | **28,638,096** | **933,654,417** | **(3.00)** | **1,681,415,980** |
| | | | | | | |
| **Total General Fund for Operations** | **20,817,534,214** | **(861,852,940)** | **(68,851,243)** | **(930,704,183)** | **(164.24)** | **19,886,830,031** |
| | | | | | | |
| **Capital Improvements** | | | | | | |
| Water Resources Development Projects | 0 | 0 | 0 | 0 | 0.00 | 0 |
| **Total Capital Improvements** | **0** | **0** | **0** | **0** | **0.00** | **0** |
| | | | | | | |
| **Total General Fund Budget** | **20,817,534,214** | **(861,852,940)** | **(68,851,243)** | **(930,704,183)** | **(161.24)** | **19,886,830,031** |

# EDUCATION
# Section F

# Public Education

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$7,923,543,951** | | **$7,923,543,951** | |
| **Legislative Changes** | | | | |
| **A. Technical Adjustments** | | | | |
| **1 ADM Adjustment**<br>Fully funds both years of average daily membership (ADM) growth for public schools, providing $55.8 million in FY 2011-12 and $143.1 million in FY 2012-13. This adjustment, which accounts for changes in multiple allotments, has traditionally been included in the continuation budget. | $55,882,651 | R | $143,087,414 | R |
| **2 Average Salary Adjustment**<br>Adjusts several budget lines to account for the decrease in average salaries between FY 2009-10 and FY 2010-11. This adjustment has traditionally been included in the continuation budget. | ($21,838,817) | R | ($22,040,287) | R |
| **B. Other Public School Funding Adjustments** | | | | |
| **3 LEA Adjustment**<br>Increases the LEA Adjustment reduction by $4.5 million in FY 2011-12 and by $59.8 million in FY 2012-13. The State Board of Education will distribute this reduction to all LEAs and charter schools on the basis of ADM. LEAs and charters will then be responsible for identifying budget reductions in order to meet their share of the LEA Adjustment. LEAs are expected to utilize federal EduJobs availability to minimize reducing position allotments. | ($4,365,359) | R | ($65,292,506) | R |
| **4 Class Size Reduction in Grades 1-3**<br>Adds funding for 1,124 additional teaching positions in FY 2011-12 and 1,144 additional teaching positions in FY 2012-13 to reduce the classroom teacher allotment ratios for grades 1-3 from 1 teacher per 18 students to 1 teacher per 17 students in both years of the biennium. A related provision, Section 7.1B, expresses the intent of the General Assembly to add additional teachers as funds become available with a goal of reducing the teacher allotment ratio in grades 1-3 to 1 teacher for every 15 students. | $61,697,942 | R | $62,767,803 | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **5 Teacher Assistants**<br>Funds teacher assistants on the basis of Kindergarten ADM only. Previously, teacher assistants were funded on the basis of ADM in grades K-3. LEAs will still have the discretion to place teacher assistants in classrooms serving grades K-3. $137.3 million will be available in FY 2011-12 and $148.5 million will be available in FY 2012-13 to fund teacher assistants. | ($390,519,448) | R | ($395,946,237) | R |
| **6 Decouple Master's and NBPTS Salary Supplements**<br>Reduces the combined salary supplement for educational personnel qualifying for both a master's degree and National Board for Professional Teaching Standards (NBPTS) supplement from 23.2% to 22.0%. NBPTS salary supplements will be calculated as 12% of the base salary the individual receives on the "A" salary schedule as opposed to the current practice of calculating the NBPTS supplement from the "M" salary schedule. | ($4,776,560) | R | ($4,776,560) | R |
| **7 Fund One LEA Per County**<br>Reduces funding to six base allotments received by multiple LEAs within the same county by 20% in FY 2011-12 and eliminates those amounts in FY 2012-13. | ($2,214,251) | R | ($11,071,255) | R |
| **8 Education Reform Studies**<br>Provides nonrecurring funding for studies of third grade literacy programs and ways to reduce the need for remedial or developmental education in the State's higher education institutions. Funding will be available to hire an outside consultant to examine these topics. | $200,000 | NR | | |
| **9 Testing**<br>Eliminates funding for four End of Course tests eliminated by S.L. 2011-8 and not required by federal law. Those tests are United States History, Civics and Economics, Algebra II, and Physical Science. The remaining testing funds are then reduced a further 10%, leaving $8.8 million available for testing in each year of the biennium. | ($2,725,029) | R | ($2,729,677) | R |
| **10 Dropout Prevention Grants**<br>Eliminates funding for the Dropout Prevention Grant program. | ($13,290,683) | R | ($13,290,683) | R |
| **11 Student Diagnostics**<br>Eliminates funding for the Student Diagnostics pilot program. | ($10,000,000) | R | ($10,000,000) | R |
| **12 Learn & Earn Virtual Schools**<br>Eliminates funding provided to four schools to provide on-line access to Learn & Earn. Students in affected schools may access courses through the Career and College Promise program described in Section 7.1A. | ($1,000,000) | R | ($1,000,000) | R |
| **13 Learn & Earn Online**<br>Eliminates funding for Learn & Earn Online courses provided through the UNC system. | ($4,875,000) | R | ($4,875,000) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **14 Small County Supplemental Funding**<br>Restructures this allotment to restrict eligibility to only those counties with ADM of 3,200 or less and provides per-pupil funding on a sliding scale based on the size of the school district. LEAs made ineligible under this formula will have their allotment phased-out over a five-year period. A related provision, Section 7.12, provides additional details on this change. $38.9 million will remain in this allotment in FY 2011-12 and $35.3 million will remain in FY 2012-13. | ($5,146,985) | R | ($8,818,208) | R |
| **15 Noninstructional Support Personnel**<br>Reduces this allotment, which supports clerical, janitorial, substitute teachers, and other personnel, by 15% in both years of the biennium. $337.1 million will remain in this allotment in FY 2011-12 and $340.3 million will remain in FY 2012-13. | ($59,497,471) | R | ($60,054,792) | R |
| **16 Textbooks**<br>Reduces funding for textbooks. $23.4 million will remain in this allotment in FY 2011-12 and $27.2 million will remain available in FY 2012-13. | ($13,000,000)<br>($79,166,861) | R<br>NR | ($13,000,000)<br>($76,500,000) | R<br>NR |
| **17 Central Office Administration**<br>Reduces the allotment to LEAs for the salaries and benefits of central office staff by 16%. This staff includes, but is not limited to, superintendents, associate and assistant superintendents, finance officers, athletic trainers, and transportation directors. $90.4 million will remain to support these local staff in FY 2011-12 and $90.5 million will remain available in FY 2012-13. | ($17,211,294) | R | ($17,254,494) | R |
| **18 School Building Administration**<br>Reduces the funding for assistant principal months of employment by approximately 21%. This reduction does not reduce any guaranteed principal positions. $302.0 million will remain in this allotment in FY 2011-12 and $304.0 million will remain available in FY 2012-13. | ($24,612,054) | R | ($25,023,016) | R |
| **19 School Building Administration Position Conversion**<br>Reduces funding for this allotment based on a modification of the allowable conversion of assistant principal and principal months of employment. Currently, LEAs are allowed to "cash-out" their allotted SBA months of employment at the State-average salary and benefits, and then use the money for other purposes. This section would continue to allow conversions, but only at the equivalent amount for a beginning Principal III for converted principal positions, and the equivalent amount for a beginning assistant principal for cashed-out assistant principal positions. | ($7,700,000) | R | ($7,700,000) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **20 Instructional Support**<br>Reduces this allotment, which supports guidance counselors, social workers, media specialists, and other miscellaneous personnel, by 5%. $435.8 million will remain in this allotment in FY 2011-12 and $439.9 million will remain available in FY 2012-13. | ($22,934,278) | R | ($23,149,479) | R |
| **21 School Bus Replacement**<br>Provides funding in FY 2011-12 for the purchase of approximately 400 replacement school buses. These buses shall be purchased without the use of extended financing. Additionally, provides funding for the financing payments due for previously purchased buses. Beginning in FY 2012-13, permanently eliminates State support for replacement of school buses not purchased before the end of FY 2010-11 and requires school bus purchases to become a local responsibility. The $21.6 million in FY 2012-13 nonrecurring funding is sufficient to support all financing payments due for previously purchased buses. | | | ($56,851,619)<br>$21,627,977 | R<br>NR |
| **22 Mentoring**<br>Eliminates funding for this allotment. School districts may use State and other funding sources to provide mentoring services for beginning teachers. | ($9,214,190) | R | ($9,214,190) | R |
| **23 School Technology Fund**<br>Eliminates General Fund support for this purpose. An additional $18.0 million for the Fund will remain available from the proceeds of the Civil Penalty and Forfeiture Fund. | ($10,000,000) | R | ($10,000,000) | R |
| **24 Staff Development**<br>Eliminates funding for this allotment. School districts may use State and other funding sources to support professional development. | ($12,565,063) | R | ($12,626,995) | R |
| **25 Uniform Education Reporting System (UERS)**<br>Reduces funding for the Uniform Education Reporting System (UERS) and the related NC WISE system as it moves into an operations and maintenance phase. This adjustment will leave $10.3 million in annual appropriations available for UERS operations. | ($2,101,213) | R | ($2,101,213) | R |
| **26 More at Four Funding Reduction**<br>Reduces More at Four General Fund support by $16 million, or approximately 20%. | ($16,000,000) | R | ($16,000,000) | R |
| **27 More at Four Transfer**<br>Transfers the remaining $65 million in General Fund appropriations to the Department of Health and Human Service's Division of Child Development (DCD) to provide a dedicated high-quality pre-K program within its Child Care Subsidy program. In addition, Section 5.4 of the budget bill redirects $63 million in Lottery funding for the program to DCD. A related provision in Section 10.7 of the bill details the particulars of the transfer. | ($65,011,651) | R | ($65,011,651) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **28 Geographically Isolated Schools Allotment**<br>Eliminates support for the additional 7.5 teaching positions provided to one school district with the characteristics required under Section 7.26 of S.L. 2009-451, as amended. | ($411,503) | R | ($411,503) | R |
| **29 Liability Insurance for Public School Personnel**<br>Establishes a single State-funded liability insurance policy for all North Carolina public schools employees. The State Board of Education shall use funding provided to establish this policy with the North Carolina Department of Public Instruction serving as the master policy holder. | $3,700,000 | R | $3,700,000 | R |
| **30 JOBS Commission Schools**<br>Eliminates planning funding for these two schools which will open in the 2011-12 school year. | ($200,000) | R | ($200,000) | R |
| **31 Learn and Earn Early College High Schools**<br>Transfers planning funding for the two schools recommended by the JOBS Commission. These schools shall be eligible for Learn and Earn Early College allotment funding. | $200,000 | R | $200,000 | R |
| **C. Pass-through Funds** | | | | |
| **32 Teacher Cadet**<br>Eliminates State support for this program. | ($340,000) | R | ($340,000) | R |
| **33 Science Olympiad**<br>Eliminates State support for this program. | ($127,500) | R | ($127,500) | R |
| **34 Kids Voting**<br>Eliminates State support for this program. | ($50,000) | R | ($50,000) | R |
| **35 NC Science, Math and Technical Education Center**<br>Eliminates State support for this program. | ($100,000) | R | ($100,000) | R |
| **36 Tarheel ChalleNGe Academy**<br>Provides funds for the phase one construction of the National Guard Tarheel ChalleNGe Academy site in Badin, NC. | $250,000 | NR | | |
| **37 Teaching Fellows Fund**<br>Reduces the General Fund appropriation for the Teaching Fellows Fund. This reduction reflects a decrease in funds available for administrative costs associated with the Teaching Fellows Program in FY 2011-12 and FY 2012-13. Additionally, funds are reduced in FY 2012-13 to phase out support for this program. It is the intent of the General Assembly to support its obligations to the 2011-12 class of Teaching Fellows and prior classes until the State's scholarship commitment is completed. | ($210,000) | R | ($3,475,000) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **D. Department of Public Instruction** | | | | |
| **38 DPI Curriculum Division**<br>Eliminates 5.5 State-funded positions working on curriculum issues. Of these, 3.5 State-funded positions are eliminated from the Curriculum, Instruction & Technology section, and 2.0 State-funded positions are eliminated from the Career and Technology Education (CTE) section. | ($457,690)<br>-5.50 | R | ($457,690)<br>-5.50 | R |
| **39 DPI Technology Services**<br>Eliminates 30.0 State-funded positions from DPI's Technology Services section. 102.85 positions (70.72 State-funded) will remain in this section. | ($2,712,988)<br>-30.00 | R | ($2,712,988)<br>-30.00 | R |
| **40 DPI Communications**<br>Eliminates 4.0 State-funded positions in the Communications section. 15.0 positions (10.8 State-funded) will remain in this section. | ($246,586)<br>-4.00 | R | ($246,586)<br>-4.00 | R |
| **41 Learn and Earn Administration**<br>Eliminates the State-funded position at DPI supporting Learn & Earn Online. | ($139,050)<br>-1.00 | R | ($139,050)<br>-1.00 | R |
| **42 Governor's Education Cabinet**<br>Eliminates funding for the 2.0 positions that DPI provides to support the NC Education Cabinet housed in the Office of the Governor. | ($206,063)<br>-2.00 | R | ($206,063)<br>-2.00 | R |
| **43 NC Professional Teaching Standards Commission**<br>Eliminates the State funding and positions supporting the NC Professional Teaching Standards Commission. | ($235,646)<br>-2.00 | R | ($235,646)<br>-2.00 | R |
| **44 Teacher Academy**<br>Eliminates State funding for the Teacher Academy, a provider of professional development services for teachers. | ($4,762,874)<br>-14.00 | R | ($4,762,874)<br>-14.00 | R |
| **45 North Carolina Center for the Advancement of Teaching (NCCAT)**<br>Eliminates State support for the ongoing operations of this teacher professional development provider. $500,000 in nonrecurring support is provided for the upkeep of the two NCCAT facilities until they are conveyed to other entities. | ($6,102,495)<br>$500,000<br>-80.25 | R<br>NR | ($6,102,495)<br>-80.25 | R |
| **46 Connectivity**<br>Eliminates the $350,000 annual transfer from Connectivity to support the e-Learning Portal. Also eliminates the $300,000 annual transfer from Connectivity to support the evaluation of the Connectivity initiative. | ($650,000) | R | ($650,000) | R |
| **47 Governor's Schools**<br>Eliminates State funding for the Governor's Schools. A related provision in Section 7.9 provides the State Board with the discretion to make the program receipt-supported beginning with the summer 2012 program. Funding remains available to provide the program in summer 2011. | | | ($849,588) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **48 Residential Schools for the Deaf and Blind**<br>Eliminates State funding for the superintendent of residential schools position within DPI and eliminates contract for outreach services provided by Beginnings, Inc. In addition, reduces the operating budget for Residential Schools for the Deaf and Blind by approximately 4.4%. For FY 2012-13, DPI must close one of the three residential schools. A related provision, Section 7.25, directs DPI to report to the Joint Education Oversight Committee of the General Assembly the school slated for closure and the Department's plan for consolidating the programs with those at the two remaining schools. | ($2,500,000)<br>-1.00 | R | ($8,000,000)<br>-1.00 | R |
| **Total Legislative Changes** | **($618,571,148)**<br>**($78,216,861)** | **R**<br>**NR** | **($677,139,628)**<br>**($54,872,023)** | **R**<br>**NR** |
| **Total Position Changes** | -139.75 | | -139.75 | |
| **Revised Budget** | **$7,226,755,942** | | **$7,191,532,300** | |

# Community Colleges

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$1,102,475,214** | | **$1,102,475,214** | |

**Legislative Changes**

**A. Technical Adjustments**

**49 Enrollment Growth** — $34,140,158 R — $47,699,747 R

Provides funds to fully fund enrollment growth, including enrollment growth for equipment funding, in both years of the biennium.

According to the FY 2010-11 spring enrollment census, enrollment has increased by 3.3% (8,081 full-time-equivalent students or FTE) above the FY 2010-11 budgeted enrollment of 243,854. Curriculum enrollment has increased by 6,928 FTE (3.6%), continuing education enrollment has increased by 1,396 FTE (4.9%), and basic skills enrollment has decreased by 243 FTE (-1.1%). Total equipment funding for FY 2011-12 is $5,643,030, which maintains the amount per equipment FTE at the FY 2009-10 level. Total requirements for the enrollment growth increase are $45,058,958, of which $10,918,800 is funded from receipts.

Estimated enrollment growth during the FY 2011-12 year is also fully funded with an additional appropriation of $13,559,589, $584,775 of which is for equipment. This adjustment is based on estimated enrollment growth of 1.5% (3,672 FTE). Total requirements for the enrollment growth are $18,478,365, of which $4,918,776 is funded from receipts.

**50 Hickory Metro Higher Education Center** — ($264,833) R — ($264,833) R

Transfers categorical funding for the Hickory Metro Higher Education Center at Catawba Valley Community College to the UNC System budget.

**B. State Aid Adjustments**

**51 Management Flexibility Reduction** — ($53,208,568) R — ($60,974,749) R

Reduces funds in the State Aid budget. The State Board of Community Colleges shall distribute the flexibility reduction, accounting for the unique needs of each college. Each college reduced shall have the flexibility to adjust its budget to implement this reduction, but shall not impact those activities directly involved in retraining displaced workers.

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **52 Curriculum Tuition**<br>Increases curriculum tuition by $10 per credit hour in FY 2011-12 and an additional $2.50 per credit hour in FY 2012-13, and makes a corresponding General Fund reduction in anticipation of increased tuition receipts.<br><br>For FY 2011-12, resident tuition will increase from $56.50 to $66.50 for residents and from $248.50 to $258.50 for nonresidents. Tuition for full-time resident students will increase by a maximum of $320 per year, from $1,808 to $2,128.<br><br>For FY 2012-13, resident tuition will increase from $66.50 to $69 for residents and from $258.50 to $261 for nonresidents. Tuition for full-time resident students will increase by a maximum of an additional $80 per year, from $2,128 to $2,208. | ($47,664,650) | R | ($60,393,549) | R |
| **53 Continuing Education Fee**<br>Increases continuing education fees by $5 per course, beginning in FY 2012-13, and takes a corresponding General Fund reduction in anticipation of increased tuition receipts. The new fees will be as follows:<br><br>Classes 1-24 hours - $70,<br>Classes 25-50 hours - $125,<br>Classes 51+ hours - $180. | | | ($664,509) | R |
| **54 Funding Formula**<br>Eliminates categorical funding for Health Sciences ($16,842,300), Technical Education ($5,500,000), and Special High Cost Programs allotment for Heavy Equipment ($328,336), and restructures the curriculum and continuing education funding formulas to provide weighted funding based on the type of instruction, as directed in Section 8.3.<br><br>Curriculum courses in high-cost areas such as healthcare, technical education, and lab-based science courses shall be weighted more heavily than other curriculum courses.<br><br>Continuing education courses that lead to a third-party credential or certification and courses providing an industry-designed curriculum shall be weighted more heavily than other continuing education courses. | ($22,670,636) | R | ($22,670,636) | R |
| **55 Basic Skills**<br>Reduces funding for basic skills education by 12.4%. Total funding remaining for the program will be $86,246,787, with $70,483,463 in State funding and $15,763,628 in federal funding. | ($10,000,000) | R | ($10,000,000) | R |
| **56 Institutional and Academic Support**<br>Eliminates funding for one of the 5.5 general institutional positions in the institutional and academic support enrollment allotment funding formula for community colleges. Total funding remaining in this allotment will be $452.5 million. | ($8,548,090) | R | ($8,548,090) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **57 Customized Training**<br>Reduces the Customized Training budget on a one-time basis. Total recurring funding for the program is $12,457,121; however, per G.S. 115D-5.1(f2), unexpended funds for the program do not revert and are instead carried forward to the next year. After this reduction, the total amount available for expenditure in the biennium is expected to be $31,710,340, or $15,855,170 per year.<br><br>Of these funds, up to $75,000 may be used to support curriculum development, materials, and training for Small Business Centers. | ($7,600,000) | NR | | |
| **58 BioNetwork**<br>Reduces funds for BioNetwork grants and centers by 6.6%. $205,582 will be reduced from BioNetwork centers (5% reduction) and $84,646 from grants to colleges (30% reduction). Total funding remaining for the program will be $4,106,056. | ($290,228) | R | ($290,228) | R |
| **59 Minority Male Mentoring**<br>Reduces funding for the Minority Male Mentoring program by 10%. Total funding remaining for the program will be $810,000. | ($90,000) | R | ($90,000) | R |
| **60 NC Military Business Center**<br>Reduces the categorical allotment to the NC Military Business Center at Fayetteville Technical Community College by 10%. Total funding remaining for the program will be $1,125,000. | ($125,000) | R | ($125,000) | R |
| **61 Textile Technology Center**<br>Reduces the categorical allotment to the Textile Technology Center at Gaston College by 10%. Total funding remaining for this program will be $821,258. | ($91,251) | R | ($91,251) | R |
| **62 Manufacturing Solutions Center**<br>Reduces the categorical allotment for the Manufacturing Solutions Center at Catawba Valley Community College by 10%. Total funding remaining for this program will be $514,904. | ($57,212) | R | ($57,212) | R |
| **63 Haywood Regional High Technology Center**<br>Eliminates the categorical allotment for the Regional High Technology Center at Haywood Community College. The college will continue to receive regular FTE formula funding for the enrollment at the Center. | ($582,383) | R | ($582,383) | R |
| **64 Botanical Laboratory**<br>Eliminates the recurring categorical allotment for the botanical laboratory at Fayetteville Technical Community College in both years. The college will continue to receive regular FTE formula funding for the enrollment at the botanical laboratory. | ($264,000) | R | ($264,000) | R |
| **65 NC REAL**<br>Eliminates pass-through funding for NC Rural Entrepreneurship through Action Learning (NC REAL). | ($250,000) | R | ($250,000) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **C. Student Aid Adjustments** | | | | |
| **66 NC Community College Grant Program**<br>Reverts the existing fund balance of $5.7 million to the Escheats Fund and increases annual appropriations by $2.5 million for a total budget of $16.5 million per year.<br><br>The funds for this item are shown in the Community College System - Trust - General Fund (Budget Code: 66801) section of this report. | | | | |
| **67 Tuition Waivers**<br>Eliminates tuition waivers for community college faculty and staff, NC Civil Air Patrol, and individuals engaged in civil preparedness activities. Colleges are permitted to use State and local funds to pay for tuition and registration fees for one course per semester for full-time faculty and staff. | ($444,000) | R | ($444,000) | R |
| **D. Community Colleges System Office Adjustments** | | | | |
| **68 System Office Positions**<br>Eliminates 19 positions in the Community Colleges System Office, including 9 vacant, 2 expected-to-be-vacant, and 8 filled positions. The positions are as follows:<br><br>Executive Division - 3 vacant and 2 filled positions;<br><br>IT & Workforce Development Division - 3 vacant, 2 expected-to-be-vacant, and 4 filled positions;<br><br>Business and Finance Division - 1 vacant and 1 filled position; and<br><br>Academic and Student Services Division - 2 vacant and 1 filled positions. | ($1,265,975)<br>-19.00 | R | ($1,265,975)<br>-19.00 | R |
| **69 System Office Operating Funds**<br>Reduces operating funds for travel, training, information technology, and other expenses. | ($265,417) | R | ($265,417) | R |
| **70 2+2 E-learning Initiative**<br>Reduces the budget of the 2+2 E-learning initiative by 13%. Total funding remaining for the program will be $653,000. | ($97,000) | R | ($97,000) | R |
| **71 Receipt-supported Positions**<br>Shifts 3.5 positions from General Fund appropriations to receipts. Positions and receipt source are as follows:<br><br>Accountant (2 positions) - indirect cost receipts;<br>Education Program Director (1 position) - Proprietary School receipts;<br>Education Consultant II (.25 position) and Education Program Director II (.25 position) - federal receipts. | ($322,180)<br>-3.50 | R | ($322,180)<br>-3.50 | R |

| Senate Subcommittee on Education | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **72 GED Program** | ($208,533) | R | ($208,533) | R |
| Shifts the General Education Development (GED) program entirely to receipt support. Section 31.2 permits the State Board of Community Colleges to increase the fee assessed to individuals taking the GED exam. The current fee is $7.50. | -2.50 | | -2.50 | |
| The fees will be used to support the costs of administering the tests, including scoring the tests and printing the GED certificates. A total of 2.5 positions will be shifted from appropriation to receipt support, including 2 GED & Adult High School Tech positions, and one-half of the Education Program Director position. | | | | |
| **Total Legislative Changes** | **($112,569,798)** | **R** | **($120,169,798)** | **R** |
| | **($7,600,000)** | **NR** | | |
| **Total Position Changes** | -25.00 | | -25.00 | |
| **Revised Budget** | **$982,305,416** | | **$982,305,416** | |

# UNC System

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$2,887,492,464** | | **$2,886,730,386** | |
| **Legislative Changes** | | | | |
| **A. Technical Adjustments** | | | | |
| **73 Enrollment Growth**<br>Fully funds projected enrollment growth for FY 2011-12 at the University of North Carolina. The projected enrollment increase of 1.2% equates to an additional 2,337 full-time-equivalent (FTE) students. Total requirements will increase by $56,474,924, of which $10,656,801 will be funded by increased tuition receipts, for a net State appropriation of $46,818,123. | $46,818,123 | R | $46,818,123 | R |
| **74 Hickory Metro Higher Education Center**<br>Transfers funds for the Hickory Metro Higher Education Center from the North Carolina Community College System budget to the budget for Appalachian State University. | $264,833 | R | $264,833 | R |
| **B. Base Budget Adjustments** | | | | |
| **75 Management Flexibility Reduction**<br>Mandates a management flexibility reduction for the UNC operating budget. As directed in Section 9.6, the UNC Board of Governors shall not allocate this reduction on an across-the-board basis to constituent institutions. | ($434,553,826) | R | ($436,441,875) | R |
| **76 UNC Hospitals Subsidy**<br>Reduces the State subsidy to UNC Hospitals by 43% for two years. $25,000,000 will remain available to UNC Hospitals after this reduction. | ($19,011,882) | NR | ($19,011,882) | NR |
| **77 Center for Public Television Continuation Review**<br>Eliminates recurring funding for the Center for Public Television and provides nonrecurring funds with a twelve percent reduction for FY 2011-12. Restoration of recurring funding is subject to the findings of a legislative continuation review. | ($11,997,888)<br>$10,558,141 | R<br>NR | ($11,997,888)<br>-116.00 | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **78 East Carolina School of Dentistry Operations**<br>Provides funds to the East Carolina School of Dentistry for new faculty and staff and operating costs to prepare for its first class of students, which will enroll in fall 2011, and to establish dental service learning centers throughout the State where faculty and students will serve patients.<br><br>Of the new funds appropriated, approximately $3.4 million in FY 2011-12 and approximately $4.5 million in FY 2012-13 will be used for salaries, wages, and benefits. Total State appropriations will be $15 million in FY 2011-12 and $16.5 million in FY 2012-13. | $3,500,000<br>27.00 | R | $5,000,000<br>39.00 | R |
| **79 Building Reserves**<br>Provides funds to operate new or renovated UNC buildings completed in FY 2011-12. Specifically, funds are for the housekeeping, maintenance, and security requirements for the added building square footage. The FY 2011-12 amount provides funding for a partial year; the FY 2012-13 appropriation represents the full-year cost. | $18,531,614<br>282.80 | R | $29,233,551<br>282.80 | R |
| **80 NC A&T/UNC-G Joint School of Nanoscience and Nanoengineering**<br>Provides nonrecurring funds for the NC A&T/UNC-G Joint School of Nanoscience and Nanotechnology located the Gateway University Research Park in Greensboro. The program is designed to conduct research in areas such as drug design and delivery, nanobioengineering, and genetic screening. | $1,000,000 | NR | | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **C. Student Aid Adjustments** | | | | |
| **81 UNC Need-based Financial Aid Program**<br>Shifts program funding to a higher proportion from the General Fund, due to diminishing Escheat Fund principal. In FY 2011-12, total funds available for the UNC Need-based Financial Aid program from all sources will be $301,446 lower than the FY 2011-12 base budget. In FY 2012-13, total funds available will be $4,956,358 lower, and students will be limited in the length of time they can receive the grant (Section 9.11). An additional $59.9 million in forward-funding is provided in FY 2011-12, to increase program stability (Section 9.9).<br><br>Total funding includes:<br><br>FY 2011-12<br>General Fund - $48,891,429<br>Escheat Fund - $127,354,154<br>Lottery Fund - $10,744,733<br><br>FY 2012-13<br>General Fund - $79,608,867<br>Escheat Fund - $32,122,242<br>Lottery Fund - $10,744,733<br><br>Note: Sections 5.4 and 9.8 appropriate funds from the Lottery Fund and Escheat Fund, respectively. | $37,891,429 | R | $68,608,867 | R |
| **82 Student Incentive Grant**<br>Eliminates funding for the Student Incentive Grant, as federal matching funds have been eliminated. In addition to the funds shown here, $3,613,601 in Escheat Fund program funding is also reduced, for a total reduction of $4,414,428. | ($800,827) | R | ($800,827) | R |
| **83 Academic Common Market**<br>Phases out funding for the Academic Common Market program, beginning in FY 2012-13. Based on tuition waived in FY 2009-10, it is estimated that $970,747 will remain in program funding in FY 2012-13. | | | ($970,747) | R |
| **84 Legislative Tuition Grant**<br>Reduces funds for the Legislative Tuition Grant (LTG) by 12.5% in FY 2011-12 and eliminates funding in FY 2012-13. This program will be replaced by the Need-based Scholarships for Students Attending Private Institutions of Higher Education, described below. | ($7,283,710) | R | ($58,269,681) | R |
| **85 State Contractual Scholarship Fund**<br>Reduces funds for the State Contractual Scholarship Fund by 12.5% in FY 2011-12 and eliminates funding in FY 2012-13. This program will be replaced by the Need-based Scholarships for Students Attending Private Institutions of Higher Education, described below. | ($5,737,121) | R | ($45,896,963) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **86 Other Private School Aid**<br>Reduces funds for Other Private School Aid by 12.5% in FY 2011-12 and eliminates funding in FY 2012-13. This program will be replaced by the Need-based Scholarships for Students Attending Private Institutions of Higher Education, described below. | ($40,125) | R | ($321,000) | R |
| **87 Need-based Scholarships for Private College Students**<br>Provides funds for the newly established Need-based Scholarships for Students Attending Private Institutions of Higher Education, beginning in FY 2012-13. This program is described in Section 9.18. | | | $62,286,250 | R |
| **88 Private Medical School Aid**<br>Eliminates funding for the Private Medical School aid program. Students funded under this program are eligible to apply for the Board of Governors Medical School Loan program. | ($1,279,000) | R | ($1,279,000) | R |
| **89 Principal Fellows**<br>Reduces program slots by 10% beginning in FY 2012-13. Total funding remaining for the program in FY 2012-13 will be $3,258,000. | | | ($362,000) | R |
| **90 Future Teachers Scholarship-loan**<br>Eliminates the remaining budget of the Future Teachers Scholarship-loan, which was abolished in 2009. | ($455,000) | R | ($455,000) | R |
| **91 Health, Science, and Mathematics Scholarship-loan**<br>Shifts the portion of program funding previously provided from the Escheat Fund to General Fund support. Total program funding will remain at $1,922,779. | $1,100,000 | R | $1,100,000 | |
| **92 Board of Governors Medical Scholarship-loan**<br>Shifts the portion of program funding previously provided from the Escheat Fund to General Fund support. Total program funding will remain at $1,869,180. | $645,000 | R | $645,000 | R |
| **93 Board of Governors Dental Scholarship-loan**<br>Shifts the portion of program funding previously provided from the Escheat Fund to General Fund support. Total program funding will remain at $939,160. | $450,239 | R | $450,239 | R |
| **94 Nurse Education Scholarship-loan**<br>Shifts the portion of program funding previously provided from the Escheat Fund to General Fund support. Total program funding will remain at $867,756. | $800,000 | R | $800,000 | R |
| **95 Teacher Assistant Scholarship Fund**<br>Shifts the portion of program funding previously provided from the Escheat Fund to General Fund support. Total program funding will remain at $814,714. | $600,000 | R | $600,000 | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **Total Legislative Changes** | **($351,546,259)** | **R** | **($340,988,118)** | **R** |
| | **($7,453,741)** | **NR** | **($19,011,882)** | **NR** |
| **Total Position Changes** | 309.80 | | 205.80 | |
| **Revised Budget** | **$2,528,492,464** | | **$2,526,730,386** | |

# NC Community College System – Trust – General

Budget Code: 66801

| | FY 2011-12 | | FY 2012-13 | |
|---|---|---|---|---|
| **Beginning Unreserved Fund Balance** | **$5,919,657** | | **$187,745** | |
| **Recommended Budget** | | | | |
| Requirements | **$26,282,132** | | **$26,282,132** | |
| Receipts | **$26,282,132** | | **$26,282,132** | |
| Positions | **0.00** | | **0.00** | |
| **Legislative Changes** | | | | |
| **Requirements:** | | | | |
| **NC Community College Grant Program** | $2,518,798 | R | $2,518,798 | R |
| Increases the annual appropriation from the Escheats Fund by $2.5 million, for a total program budget of $16.5 million per year. | $0 | NR | $0 | NR |
| | 0.00 | | 0.00 | |
| **Community College Grant Program Fund Balance** | $0 | R | $0 | R |
| Appropriates the program's fund balance, which will be transferred to the Escheats Fund. | $5,731,912 | NR | $0 | NR |
| | 0.00 | | 0.00 | |
| **Correction to Base Budget** | ($11,648,356) | R | ($11,648,356) | R |
| Corrects an error in the Governor's recommended budget for the total requirements in Budget Code 66801, Fund 6102. | $0 | NR | $0 | NR |
| | 0.00 | | 0.00 | |
| **Subtotal Legislative Changes** | **($9,129,558)** | R | **($9,129,558)** | R |
| | **$5,731,912** | NR | **$0** | NR |
| | 0.00 | | 0.00 | |
| **Receipts:** | | | | |
| **NC Community College Grant Program** | $2,518,798 | R | $2,518,798 | R |
| Increases receipts from the Escheats Fund by $2.5 million. Total program receipts will be $16.5 million per year. | $0 | NR | $0 | NR |

| | FY 2011-12 | | FY 2012-13 | |
|---|---|---|---|---|
| **Correction to Base Budget** | ($11,648,356) | R | ($11,648,356) | R |
| Corrects an error in the Governor's recommended budget for the fund balance receipts in Budget Code 66801, Fund 6102. | $0 | NR | $0 | NR |
| **Subtotal Legislative Changes** | **($9,129,558)** | R | **($9,129,558)** | R |
| | **$0** | NR | **$0** | NR |
| **Revised Total Requirements** | **$22,884,486** | | **$17,152,574** | |
| **Revised Total Receipts** | **$17,152,574** | | **$17,152,574** | |
| **Change in Fund Balance** | **($5,731,912)** | | **$0** | |
| **Total Positions** | **0.00** | | **0.00** | |
| **Unappropriated Balance Remaining** | **$187,745** | | **$187,745** | |

# HEALTH
# &
# HUMAN SERVICES
# Section G

# Health and Human Services

GENERAL FUND

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| Recommended Continuation Budget | $4,927,739,648 | | $4,928,125,764 | |
| Legislative Changes | | | | |
| ( 1.0) Division of Child Development | | | | |
| 1 **Pre-kindergarten Funds Transfer**<br>Transfers $65,011,651 from the Department of Public Instruction to Department of Health and Human Services to operate a pre-kindergarten program within the Division of Child Development. Additionally, lottery funds will be allocated in the amount of $63,135,709 for the continued payment of a high quality pre-kindergarten program.<br>Sec. 10.7 | $65,011,651 | R | $65,011,651 | R |
| 2 **TANF Funding**<br>Replaces State funds for child care subsidy with one time TANF funds. This reduction does not result in loss of services. | ($6,352,644) | NR | ($6,352,644) | NR |
| 3 **Smart Start**<br>Reduces the Smart Start budget by 20%, leaving $150M available to support activities.<br>Sec. 10.5 | ($37,600,000) | R | ($37,600,000) | R |
| 4 **TEACH Program**<br>Swaps federal Child Care Development Fund Block Grant with state funds for the program.<br>Sec. 10.60 (a) | ($3,800,000) | R | ($3,800,000) | R |
| 5 **Social Services Administrative Support**<br>Reduces the allowance for County Departments of Social Services administrative allowance from 5% to 4%. This leaves $16.4M County Departments of Social Services may use to support administrative costs.<br>Sec. 10.60 (a) | ($3,195,581) | R | ($3,195,581) | R |
| 6 **Post-Secondary Education**<br>Reduces child care subsidy funding available for post-secondary education. This reduction will change the existing policy from allowing individuals to receive subsidy for 24 months to 20 months. The combination of changing various policies (items 6-9) will result in a net reduction of $9.7M, leaving approximately $54M.<br>Sec. 10.1 (c)(5) | ($7,052,797) | R | ($7,052,797) | R |

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|---|---|---|---|---|
| **7 More At Four Match**<br>Discontinues payment for the instructional day of More At Four students by child care subsidy funds. The combination of changing various policies (items 6-9) will result in a net reduction of $9.7M, leaving approximately $54M. | ($1,305,008) | R | ($1,305,008) | R |
| **8 Facility Registration Fees**<br>Discontinues payment for child care centers' registration fees by child care subsidy funds. The combination of changing various policies (items 6-9) will result in a net reduction of $9.7M, leaving approximately $54M.<br>Sec. 10.1 (c)(4) | ($360,570) | R | ($360,570) | R |
| **9 Transportation Services**<br>Discontinues payment for transportation services with subsidy funds. The combination of changing various policies (items 6-9) will result in a net reduction of $9.7M, leaving approximately $54M.<br>Sec. 10.1 (c)(4) | ($1,001,718) | R | ($1,001,718) | R |
| ( 2.0) Division of Mental Health, Developmental Disabilities, and Substance Abus Services | | | | |
| **10 Management Funding Reduction**<br>Reduces community service funds by 2%; this reduction continues a non-recurring reduction made in FY2010-11. These funds have not been used to pay for services. There is currently $350M in state funding to pay for services managed through Local Management Entities. | ($7,180,807) | R | ($7,180,807) | R |
| **11 Advocacy Positions**<br>Eliminates seven vacant advocacy positions located throughout facilities and/or community settings. There are 56 positions remaining after this reduction; this is an 11% reduction in number of positions for advocacy. | ($158,045)<br>-7.00 | R | ($158,045)<br>-7.00 | R |
| **12 Community Service Funds**<br>Reduces Community Services funds managed by Local Management Entities. This reduction combined with the Management Funding Reduction leaves $313M of state funds available for purchase of services through Local Management Entities. | ($30,000,000) | R | ($30,000,000) | R |
| **13 Local Management Entities**<br>Reduces administration for Local Management Entities (LME) based upon an overall reduction of 5% state funds across the board and the Secretary of Health and Human Services' plan to transition LME's into 1915bc waiver programs or consolidate with the existing waiver entity. Administrative reimbursement is allowed within the capitated rate funded within the Medicaid program and the funds within Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, will no longer be needed for these LMEs. There is approximately $103M remaining of state and federal funds to continue administrative funding for LME's in FY2011-12 and FY2012-13. | ($7,234,005) | R | ($7,234,005) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **14 Child and Family Support Teams**<br>Eliminates funding for coordinator positions located in 15 Local Management Entities. These positions have supported the Child and Family Team Pilot Program. Funds within Division of Social Services for this pilot is also being eliminated within this budget. | ($523,638) | R | ($523,638) | R |
| **15 Community Services Funds - Swap**<br>Replaces Community Services Funds with Local Management Entities' Fund Balance for FY2011-12. There was approximately $210M in fund balances among 17 Local Management Entities, of which $65M was defined as undesignated and unreserved. This reduction is to come from the undesignated/unreserved funding and not further reduce community services.<br>Sec. 10.11 (d) | ($25,000,000) | NR | | |
| **16 Information Technology Reserve**<br>Eliminates the funding for the information technology account that is used to fund the facilities' information technology systems upgrade. | ($5,100,390) | R | ($5,100,390) | R |
| ( 3.0) Division of Central Management and Support | | | | |
| **17 Division of Information Resource Management - Contracts**<br>Eliminates recurring funding for the DIRM Contracts. Funding for FY2012-13 is pending the findings and recommendations of a Continuation Review. | ($5,599,390)<br>$5,599,390 | R<br>NR | ($5,599,390) | R |
| **18 Community Health Centers**<br>Reduces funding available for grants to community health centers. Grants are awarded on a multi-year basis; this reduction represents the new grants to be awarded in FY2011-12. There will be $5M remaining for grants. | ($1,452,527) | R | ($1,452,527) | R |
| **19 Loan Repayment Program - Federal Receipts**<br>Replaces state funds with increased federal funds available for the loan repayment program. The total program has approximately $1.4M in funds. | ($458,395) | R | ($458,395) | R |
| **20 Information Resource Management - Operating Budget**<br>Reduces excess operating funds within the Division of Resource Management. | ($550,556) | R | ($550,556) | R |
| **21 Position Eliminations - Office of the Controller**<br>Eliminates two positions, one due to transfer of the Residential Schools to Department of Public Instruction and one within Purchase of Medical Care Section. | ($76,215)<br>-2.00 | R | ($76,215)<br>-2.00 | R |
| **22 Department Wide Administrative Efficiencies**<br>Reduces administrative funds and positions available within the Department of Health and Human Services. Administrative cost savings should include the co-location of various regional and field offices to achieve savings in leased space costs. | ($1,869,435)<br>-25.00 | R | ($1,869,435)<br>-25.00 | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **23 Nonprofit Reductions**<br>Reduces grants-in-aid and contract funding for non-profits by $10M. There is currently $75M in state funds for non-profits and this reduction represents 13% of state funding. | ($10,000,000) | R | ($10,000,000) | R |
| **24 Migrant Fee for Service Program**<br>Reduces the program funds for the Migrant Purchase of Medical Care Program; the federal funds will continue. There remains approximately $2.8M in this program. | ($736,145) | R | ($736,145) | R |
| **25 NC Care Line**<br>Eliminates funding and positions for the NC Care Line. | ($380,478)<br>-11.00 | R | ($380,478)<br>-11.00 | R |
| **26 Information Resource Management - Conversion of Contracts to Employees**<br>Reduces the contractual services line item within Division of Resource Management. This reduction represents cost-savings realized from converting 78 Information Technology Contractors to state employees. | ($1,360,982) | R | ($1,360,982) | R |
| **27 Position Eliminations**<br>Eliminates vacant positions. There are over 1,600 positions vacant. | ($7,771,997)<br>-250.00 | R | ($7,771,997)<br>-250.00 | R |
| **28 Budgeting Receipts - Information Resource Management**<br>Replaces state appropriations within Division of Resource Management ($410,225) and throughout Central Management and Support ($151,000) with over-realized receipts. | ($561,225) | R | ($561,225) | R |
| ( 4.0) Division of Public Health | | | | |
| **29 Division of Environmental Health Transfer**<br>Transfers $14,296,540 from the Department of Environment and Natural Resources to the Department of Health and Human Services to operate various programs and activities that comprised the Division of Environmental Health. In effecting this transfer, the following activities are being eliminated: 1) Public Health Pest Management Section, and 2) the Private Well Program, WaDE Program, and Quality Assurance of the On-Site Water Protection Section. | | | | |
| **30 Department of Health and Human Services - Chemical Testing Unit**<br>Shifts a portion of funds for position number 60039654 from Highway Fund receipts to other receipts within the Department of Health and Human Services budget, and reduces funding for purchased services by $6,280. | | | | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **31 Early Intervention**<br>Requires the Division of Public Health to implement several administrative efficiencies, including: 1) elimination of 11 vacant positions; 2) reducing the contract to the Charlotte-Child Development Service Agency (a reduction that can be made up by its implementing Medicaid cost-settlement); and 3) other administrative efficiencies. The program will continue to be funded at nearly $80 million annually, with a combination of federal and state funds. | ($3,118,046)<br>-11.00 | R | ($3,118,046)<br>-11.00 | R |
| **32 Office of Minority Health**<br>Reduces the administrative staff within the Office of Minority Health with little or no impact on the Division's ability to direct this program or provide technical assistance to Local Health Departments in striving to eliminate health disparities. | ($302,262)<br>-4.00 | R | ($302,262)<br>-4.00 | R |
| **33 Consolidate Healthy Carolinians and Health Education**<br>Integrates the activities of the Office of Healthy Carolinians and Health Education into the duties of other personnel in the Division of Public Health. The Division will continue to provide technical assistance to local communities in support of the Governor's Task Force on Healthy Carolinians. | ($571,447)<br>-10.00 | R | ($571,447)<br>-10.00 | R |
| **34 Local Health Department Accreditation**<br>Continues funding for the Accreditation program at a level comparable to FY 2010-11 ($375,000). This allows the program to be funded at a maintenance level. | ($400,000) | R | ($400,000) | R |
| **35 Reduce Unallocated Funds for School Nurse Initiative Funds**<br>Reduces unallocated funds for state-supported school nurses, including FY 2010-11 funding for 10 unfilled nurse positions. | ($566,433) | R | ($566,433) | R |
| **36 Oral Health Reduction**<br>Eliminates the epidemiology survey of children's teeth in grades 3, 5, and 7 and informational services associated with the survey. | ($3,000,000)<br>-36.00 | R | ($3,000,000)<br>-36.00 | R |
| **37 Health & Wellness Trust Fund Transfer to DHHS**<br>Transfers $32,904,411 from funds available to the Health & Wellness Trust Fund to the Department of Health and Human Services as follows:<br>-- $22,000,000 shall be used to administer the grants associated with the following programs and initiatives; Teen Tobacco Prevention, CheckMeds, Medication Assistance Program, and Obesity Prevention.<br>-- $10,000,000 shall be used to reduce the total savings required to be achieved for the Medicaid program by Community Care of North Carolina<br>-- The remainder shall be used to reduce the Medicaid Provider Rate cut. | $32,904,411 | NR | | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **( 5.0) NC Health Choice** | | | | |
| 38 **Modify Health Choice Services**<br>Modifies and ensures the clinical appropriateness of several Health Choice Services, including: 1) Elimination of long-term care, hearing services, and non-emergency transportation; 2) Reduction of dental benefits; and 3) Assurance of evidence-based treatment. | ($650,000) | R | ($900,000) | R |
| 39 **Benchmark Health Choice to Medicaid**<br>Benchmarks Health Choice services to Medicaid including the amounts, types, and reimbursement rates. The exception is that Health Choice will not be benchmarked to Medicaid's Early Periodic Screening, Diagnosis, and Treatment Program. | ($125,000) | R | ($350,000) | R |
| 40 **Targeted Rate Adjustments**<br>Adjusts Medicaid provider reimbursement rates. The Division of Medical Assistance will adjust provider reimbursement rates that are above regional rates, or where analysis indicates an adjustment is warranted and appropriate. | ($225,000) | R | ($250,000) | R |
| 41 **Strengthen and Restructure Program Integrity**<br>Budgets savings to be realized by the Division of Medical Assistance as a result of restructuring and modernizing its program integrity and fraud and abuse operations to enhance recoveries and avoid overpayments. Complementary savings are expected in the Health Choice program. | ($500,000) | R | ($666,667) | R |
| 42 **Care Coordination through CCNC**<br>Reduces State costs in the Division of Medical Assistance by re-establishing the care and utilization management services of the Community Care of North Carolina program-both Networks and Physician of Health Choice recipients. A per member per month payment will be made to physicians and networks. The cost will be offset by better management of services and improved clinical outcomes which lead to reduced state costs. | ($4,255,235) | R | ($4,489,274) | R |
| 43 **Health Choice Adjustment**<br>Adjusts funding for Health Choice to reflect the changes in the consumption and mix of services, and payment to cost-settled health care providers. The policy of open enrollment will continue in FY 2011-12 and is projected to increase enrollment to approximately 148,203 children. Open enrollment will continue in FY 2012-13, but at a moderated rate. | ($3,166,254) | R | $2,000,000 | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **( 6.0) Division of Medical Assistance** | | | | |
| **44 Medicaid Provider Assessments**<br>Levies an assessment of up to 5.5%, consistent with Federal Regulations, on willing Medicaid healthcare providers. Currently, the list of providers includes: Hospitals, Critical Access Behavioral Health Agencies (CABHA), and Community Alternative Programs for Mentally Retarded (CAP/MR). A portion of the assessment will be retained by the State. The current 5.5% assessment on Nursing Homes is not affected. | ($60,183,120) | R | ($62,798,614) | R |
| **45 Adjust Assessment on Nursing Facilities to 6%**<br>Adjusts the assessment rate on Nursing Facilities upward to 6.0%, as allowed by Federal regulations, effective October 1, 2011, by adjusting the appropriate totals accordingly. | ($7,926,122) | R | ($10,568,163) | R |
| **46 Implement Pregnancy Home Model**<br>Budgets savings to be achieved from the March 2011 implementation of a collaborative effort between Community Care of North Carolina Networks and Local Health Departments to improve the quality of perinatal care and ensure that high-risk pregnant women receive the care and case management required. The improved birth outcomes, especially preventing premature births will reduce state expenditures incurred by the Division of Medical Assistance. | ($528,960) | R | ($3,457,596) | R |
| **47 Health Homes for Chronically Ill**<br>Budgets revenue from the increased federal matching rate for the Health Homes for Chronically Ill Program. The Division of Medical Assistance is taking advantage of the two-year Federal program to enhance comprehensive care management for Medicaid recipients with co-occurring illnesses, including a chronic health condition and severe and persistent mental health condition. The Federal matching rate for this program, during the two-years, is 90%, versus the current rate of approximately 65%. | ($16,146,384) | NR | ($24,739,541) | NR |
| **48 Strengthen and Restructure Program Integrity**<br>Budgets the anticipated savings from the Division of Medical Assistance efforts to reduce, if not eliminate, fraud and abuse in the Medicaid program by restructuring and modernizing current policies and efforts. Through policy and staffing changes and technology improvements, state administrative costs will be reduced, and avoid over payments and improving the recovery of funds. | ($19,200,000)<br>-30.00 | R | ($28,000,000)<br>-40.00 | R |
| **49 Generic Substitution for Off-Patent Drugs**<br>Budgets anticipated savings in FY 2012-13. In the next 12 months several brand-name drugs are scheduled to go off patent, leading to generic drug substitution savings in FY 2012-13. | | | ($7,000,000) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **50 Modify Pharmacy Services**<br>Budgets savings to be realized by the Division of Medical Assistance through several actions, including: 1) Better management of drug rebates, 2) Ensuring Medicare Part D correctly reimburses Medicaid, 3) Elimination of automatic refills, and 4) For flexibility to modify dispensing fees. | ($10,845,441) | R | ($14,436,600) | R |
| **51 Modify Generic Prescription Dispensing Rates**<br>Revises generic drug dispensing rates to increase the rate of generic drugs within the Medicaid Program. | ($15,000,000) | R | ($24,000,000) | R |
| **52 Behavioral Health Medicaid 1915 b/c Waiver**<br>Expands the capitated behavioral health program to additional Local Management Entities (LMEs). | ($10,537,931) | R | ($52,551,082) | R |
| **53 DHHS Savings Through Community Care of North Carolina (CCNC)**<br>Budgets savings to be achieved by DHHS, in conjunction with CCNC Networks and North Carolina Community Care, Inc., through the cooperation of Medicaid health care providers. To the extent these savings are not achieved, DHHS is to undertake whatever actions necessary to affect the savings, including: 1) Reducing provider rates, and 2) Eliminating or reducing the level or duration of optional Medicaid services. | ($83,071,581) | R | ($90,000,000) | R |
| **54 Modify Optional and Mandatory Services**<br>Budgets savings to be achieved by the Division of Medical Assistance through adjustments to mandatory and optional Medicaid services. These changes include the following services: Optical, Durable Medical Equipment, Specialized Therapies, Home Health, Dental, and a variety of other services. In the event, these savings are not fully achieved, the elimination of optional service requirements may be required. | ($16,732,335) | R | ($22,295,678) | |
| **55 Modify and Eliminate Optional Services**<br>Budget savings to be achieved by the Division of Medical Assistance in SFY 2012-13 through adjustments to and elimination of optional Medicaid services. These changes include the following: Specialized Therapies, H Codes for provisionally licensed providers, Adult Dental, Podiatry, Adult Physical, Speech, and Occupational Therapy, Nursing Homes, Respiratory Therapy, Chiropractic Services, and Optical Services and Supplies. | | | ($51,474,609) | R |
| **56 Eliminate Inflationary Increases**<br>Eliminates automatic inflation increases for Medicaid providers. The Division of Medical Assistance is not to authorize any inflationary increases to Medicaid provider rates during the 2011-13 biennium, except as provided for in Section 10.43. | ($62,853,775) | R | ($130,874,505) | R |

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|---|---|---|---|---|
| 57 **Adjust Provider Rates**<br>Reduces Medicaid provider reimbursement rates. The Division of Medical Assistance is to reduce Medicaid provider rates by 3%, except as provided for in Section 10.46. | ($71,420,718) | R | ($71,420,718) | R |
| 58 **Targeted Rate Adjustments**<br>Budgets savings to be achieved by the Division of Medical Assistance adjustments of Medicaid reimbursement rates where its rates are not in-line with regional rates or where analysis indicates a rate adjustment is appropriate to bring it in-line with costs. Current examples include: High-tech Imaging in Hospital Outpatient Departments and Adult Care Home--Special Units. | ($8,453,125) | R | ($9,000,000) | R |
| 59 **Medicaid Rebase**<br>Rebases the Medicaid budget to adjust for changes in the number of Medicaid recipients, utilization or consumption of services, mix of services being consumed, inflation for cost-settled providers, and changes to the Federal Medical Assistance Percentage (FMAP). | | | $196,005,122 | R |
| 60 **Eliminate Optional Service Home Infusion Therapy**<br>Eliminates the Optional Medicaid Service of Home Infusion Therapy. Medicaid recipients will receive such services through outpatient facilities. | ($1,361,984) | R | ($1,361,984) | R |
| 61 **Eliminate Optional Service of Over-the-Counter Drugs**<br>Eliminates optional service of Over-the-Counter drugs, similar to private health insurance plans. | ($1,976,066) | R | ($1,976,066) | R |
| ( 7.0) Division of Health Service Regulation | | | | |
| 62 **Nursing Home Licensure and Certification Funds**<br>Replaces State funds with federal receipts in the Nursing Home Licensure and Certification Section on a non-recurring basis. The receipts come from civil monetary penalties assessed against nursing homes. | ($1,792,559) | NR | ($1,792,559) | NR |
| ( 8.0) Division of Social Services | | | | |
| 63 **Vendor Payments for New Special Needs Adoptions**<br>Eliminates special vendor payments for all new adoption agreements effective on or after July 1,2011. Special vendor payments, of up to $2,400 a year for non-medical, non-Medicaid reimbursable goods or services for special needs children, remain in effect for adoption agreements signed prior to July 1, 2011. | ($550,963) | R | ($550,963) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| 64 **Child and Family Team Pilot Elimination**<br>Eliminates pilot funding for local departments of social services that partially supports Child and Family Team positions. Child and Family Teams will continue to work in schools and DSS will continue to provide training and technical assistance to local departments of social services in order for the initiative to continue. | ($420,804) | R | ($420,804) | R |
| 65 **Replace State Funding for Child Protective Services**<br>Replaces state funds with federal block grant funds to support Child Protective Services. County departments of social services will receive Social Services Block Grant (SSBG) funds in lieu of state general funds.<br>Sec. 10.60 (a) | ($5,040,000) | R | ($5,040,000) | R |
| 66 **Eliminate Special Assistance Intervention Team**<br>Eliminates the Special Assistance Intervention team, whose purpose was to provide special assistance and intervention services for low performing counties around child welfare services. The model has not been effective and positions are vacant. | ($103,997)<br>-2.00 | R | ($103,997)<br>-2.00 | R |
| 67 **Eliminate State General Funds to Local Departments of Social Services**<br>Continues the reduction in general funds to county departments of social services from the previous biennium. This action eliminates the State general fund contribution to county social services departments to offset the cost of administering public assistance programs. The administrative cost of these programs is shared evenly by the federal and county governments. | ($5,473,985) | R | ($5,473,985) | R |
| 68 **Prioritize Adult Day Care Funding for Ages 18 to 59**<br>Reduces the State Adult Day Care Fund. Revises the policy regarding the age of persons eligible to receive Fund-supported day care services, with priority given to adults ages 18 - 59. Services will remain available to individuals 60 and older through the Home and Community Block Care Block Grant. | ($1,106,000) | R | ($1,106,000) | R |
| 69 **Use Social Services Block Grant (SSBG) to Support Adult Protective Services**<br>Replaces State funds with federal funds by requiring all counties to use federal SSBG funds to provide adult protective services. This will require 52 counties to begin using their SSBG allocations to provide this mandated service.<br>Sec. 10.60 (a) | ($2,000,000) | R | ($2,000,000) | R |
| 70 **Eliminate State Abortion Fund**<br>Eliminates funding for the State Abortion Fund.<br><br>Sec. 10.53 | ($50,000) | R | ($50,000) | R |

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|---|---|---|---|---|
| **71 Reduce NC Reach Scholarship Funds**<br>Reduces the budget for the NC Reach post-secondary education program by 50%, $1,584,125, maintaining the program at the FY 2010-11 funding level.<br>Sec. 10.54 (a) | ($1,584,125) | R | ($1,584,125) | R |
| **72 Reduce Child Welfare Education Collaborative Funds**<br>Eliminates the special appropriation for the Child Welfare Education Collaborative. $1,005,023 in combined federal and other state funds remain to support the program. | ($239,453) | R | ($239,453) | R |
| **73 Replace Division Admin Funds with Federal Block Grant**<br>Replaces State funding for the Division of Social Services administrative costs with federal TANF Block Grant funds.<br>Sec. 10.60 (a) | ($1,389,084) | R | ($1,389,084) | R |
| ( 9.0) Division of Aging and Adult Services | | | | |
| **74 Prioritize Senior Funding**<br>Eliminates Senior Center General Purpose Funds for non-certified senior centers and reduces funding for certified centers. Funding is eliminated, $462,589, for all non-certified centers, 85 centers will each lose $5,442. Funding for the remaining 77 certified senior centers is reduced by $197,411, for an average reduction of $2,564 each. $645,377 in state funds remains in the continuation budget for the 77 certified centers. | ($660,000) | R | ($660,000) | R |
| **75 Replace Funding for Long-Term Care Constituent Advocate Program**<br>Replaces State funds with federal Civil Monetary Penalty proceeds to support the Long-Term Care Ombudsman Program, which advocates for the elderly. | ($200,000) | R | ($200,000) | R |
| **76 Eliminate Volunteer Program Development**<br>Eliminates funds for the Volunteer Development Program, one of 18 services funded through the Home and Community Care Block Grant. Currently, only 11 counties elect to provide this service. | ($200,000) | R | ($200,000) | R |
| **77 Reduce Home and Community Care Block Grant**<br>Reduces State funding for the Home and Community Care Block Grant by 3 percent. Approximately $33.7 million in State funds remains in the continuation budget for home-based and community services for elderly and disabled adults. | ($1,000,000) | R | ($1,000,000) | R |
| (10.0) Divisions of Services for the Blind and Services for the Deaf and Hard of Hearing | | | | |
| **78 Reduce Medical Eye Care Program**<br>Reduces funding for the Medical Eye Program. | ($190,961) | R | ($190,961) | R |

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|---|---|---|---|---|
| 79 **Independent Living Program Funds**<br>Replaces a portion of the General Fund for the Independent Living Program with an allocation from the Social Services Block Grant. | ($1,000,000) | NR | ($1,000,000) | NR |
| (11.0) Division of Vocational Rehabilitation | | | | |
| 80 **Eliminate Recreational Therapists Services**<br>Eliminates recreational therapist services available in only five cities across the state. Four of the five positions to be eliminated are vacant. | ($284,501)<br>-5.00 | R | ($284,501)<br>-5.00 | R |
| 81 **Reduce Independent Living Program**<br>Reduces State funding for independent living services by 9%. Services will continue to be prioritized so as to avoid institutional care. | ($1,774,021) | R | ($1,774,021) | R |
| 82 **Reduce Basic Support Program**<br>Replaces a portion of the State funds for the Basic Support Program with unspent federal funds. | ($2,067,928) | NR | ($2,067,928) | NR |
| **Total Legislative Changes** | **($479,556,982)**<br>**($13,855,714)** | R<br>NR | **($490,410,769)**<br>**($35,952,672)** | R<br>NR |
| Total Position Changes | -393.00 | | -403.00 | |
| **Revised Budget** | **$4,434,326,952** | | **$4,401,762,323** | |

| | FY 2011-12 | FY 2012-13 |
|---|---|---|

Subcommittee on Health and Human Services

# Health & Wellness Trust Fund

Budget Code: 23460

| | FY 2011-12 | FY 2012-13 |
|---|---|---|
| Beginning Unreserved Fund Balance | **$32,904,411** | **$0** |
| Recommended Budget | | |
| Requirements | **$0** | **$0** |
| Receipts | **$0** | **$0** |
| Positions | **0.00** | **0.00** |

Legislative Changes

Requirements:

| | | | | |
|---|---|---|---|---|
| **Health & Wellness Trust Fund to General Fund** | $0 | R | $0 | R |
| Transfers the $32,904,411 in Health and Wellness Trust Fund to the General Fund for use by the Department of Health and Human Services. | $32,904,411 | NR | $0 | NR |
| | 0.00 | | 0.00 | |
| Subtotal Legislative Changes | **$0** | R | **$0** | R |
| | **$32,904,411** | NR | **$0** | NR |
| | 0.00 | | 0.00 | |

Receipts:

| | | | | |
|---|---|---|---|---|
| **Health & Wellness Trust Fund to General Fund** | $0 | R | $0 | R |
| Transfers the $32,904,411 in Health and Wellness Trust Fund to the General Fund for use by the Department of Health and Human Services. | $0 | NR | $0 | NR |
| Subtotal Legislative Changes | **$0** | R | **$0** | R |
| | **$0** | NR | **$0** | NR |

| | FY 2011-12 | FY 2012-13 |
|---|---|---|
| **Revised Total Requirements** | $32,904,411 | $0 |
| **Revised Total Receipts** | $0 | $0 |
| **Change in Fund Balance** | ($32,904,411) | $0 |
| **Total Positions** | 0.00 | 0.00 |
| **Unappropriated Balance Remaining** | $0 | $0 |

# NATURAL & ECONOMIC RESOURCES
# Section H

# Agriculture and Consumer Services

GENERAL FUND

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **Recommended Continuation Budget** | **$61,754,014** | | **$61,754,014** | |
| **Legislative Changes** | | | | |
| **Department-wide** | | | | |
| **1 Cell Phones** | ($41,805) | R | ($41,805) | R |
| Reduces General Fund appropriation for cell phones across the Department by 25%. The Department is to reduce the actual number of phones by this percentage as well. | | | | |
| **2 Longevity** | ($25,000) | R | ($25,000) | R |
| Reduces General Fund appropriation for longevity across the Department to reflect expected longevity needs. | | | | |
| **3 Motor Fleet Management** | ($127,726) | R | ($127,726) | R |
| Reduces General Fund appropriation for Motor Fleet Management expenditures across the Department by 10%. The Department is to reduce the actual number of Motor Fleet Management vehicles by 10% as well. | | | | |
| **4 Vacant Positions and Salary Reserve** | ($824,249) | R | ($824,249) | R |
| Eliminates 12 vacant positions and fund shifts one position. Of the eliminated positions, 11 were proposed by the Department and one had been vacant for more than one year as of March 2011. The reduction includes salaries and benefits for these positions and salary reserve. Positions eliminated include: | -13.00 | | -13.00 | |

| | | |
|---|---|---|
| 60011803 | Research Tech | $34,923 |
| 60011834 | Technology Support Analyst | $77,114 |
| 60011858 | Lithographic Press Operator III | $58,413 |
| 60011880 | Food Compliance Officer I | $50,736 |
| 60011976 | Food Inspector | $47,631 |
| 60012083 | Veterinarian | $126,818 |
| 60012226 | Veterinary Laboratory Asst I | $32,834 |
| 60012592 | Research Spec | $49,593 |
| 60012527 | Processing Assistant IV | $40,649 |
| 60012095 | Veterinarian | $106,463 |
| 60012094 | Livestock Compliance Officer | $67,706 |
| 60011911 | Chemist | $42,294 |
| | Salary Reserve | $12,111 |

Fund shifts one position to the Pesticide Environmental Trust Fund:

| | | |
|---|---|---|
| 60012056 | Environmental Toxicologist | $76,964 |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **5 Forest Resources**<br>Transfers the Division of Forest Resources from the Department of Environment and Natural Resources to the Department of Agriculture and Consumer Services. | | | | |
| **6 Soil & Water Conservation**<br>Transfers the Division of Soil and Water Conservation from the Department of Environment and Natural Resources to the Department of Agriculture and Consumer Services. | | | | |
| **7 Sleep Products Section**<br>Transfers the Sleep Products Section of the Division of Environmental Health within the Department of Environment and Natural Resources to the Department of Agriculture and Consumer Services. The Sleep Products Section has eight FTE; the $630,337 budget is entirely supported by receipts. | | | | |
| **Reserves & Transfers** | | | | |
| **8 S.B. 109 Funds**<br>Provides $2.4 million to the Department to restore funds taken to meet the requirements of S.L. 2011-15 (S.B. 109). | $2,400,000 | NR | | |
| **9 Tobacco Trust Fund**<br>Provides General Fund appropriation for the operation of the Tobacco Trust Fund (TTF). Beginning in FY 2011-12, MSA funds are transferred to the General Fund, not directly to TTF. These funds shall be used for administration, grants, and all costs associated with the enforcement of the MSA formerly covered by payments from both TTF and the Health & Wellness Trust Fund. | $8,334,360 | NR | $8,790,386 | NR |
| **Administration** | | | | |
| **10 Ag. Development and Farmland Preservation Trust Fund**<br>Reduces funding for the Agricultural Development and Farmland Preservation Trust Fund by 15%. This leaves $1.7 million to be appropriated to the Trust Fund. | ($300,000) | R | ($300,000) | R |
| **11 Cooperative Grading Service Charge**<br>Reduces General Fund support for the General Administration Division, replacing these funds with $20,000 paid by the Cooperative Grading Program for budgeting, accounting, and HR services provided by the Division. | ($20,000) | R | ($20,000) | R |
| **12 Ag in the Classroom**<br>Transfers the appropriation for Ag in the Classroom to Commerce State-Aid. All nonprofits funded by the Natural and Economic Resources Subcommittee will now be funded out of Commerce State-Aid. | ($22,077) | R | ($22,077) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **13 FFA Foundation**<br>Transfers the appropriation for the FFA Foundation to Commerce State-Aid. A 15% reduction will be taken when the funds are added into the Commerce State-Aid section, leaving $37,531. All nonprofits funded by the Natural and Economic Resources Subcommittee will now be funded out of Commerce State-Aid. | ($44,154) | R | ($44,154) | R |
| **Agronomics** | | | | |
| **14 Soil Testing Fees**<br>Implements two fees related to soil testing: (1) A fee for soil tests on samples sent to the Department from outside of North Carolina and (2) a fee for expedited soil testing. The fee for out-of-state soil tests shall not be less than $5. The expedited service will be for bulk samples and the fee shall not be less than $100. | ($50,000) | R | ($50,000) | R |
| **Food & Drug** | | | | |
| **15 Antifreeze Registration**<br>Increases the fee for antifreeze registration from $250 to $500 for each brand of antifreeze. This fee has not been increased since 1979. | ($75,000) | R | ($75,000) | R |
| **Food Distribution** | | | | |
| **16 Administrative Position**<br>Eliminates one administrative position within the Food Distribution Division. The reduction includes salaries and benefits for this position.<br><br>60012718 Office Assistant III $43,235 | ($43,235)<br>-1.00 | R | ($43,235)<br>-1.00 | R |
| **17 Position to Federal Receipts**<br>Transfers funding for one Storeroom Manager from General Fund support to federal receipts. The reduction includes salaries and benefits for this position.<br><br>60012736 Storeroom Manager $48,608 | ($48,608)<br>-1.00 | R | ($48,608)<br>-1.00 | R |
| **Markets** | | | | |
| **18 Piedmont Farmers Market**<br>Eliminates General Fund support for the Piedmont Farmers Market. This market will now operate as a self-supporting enterprise budgeted in an Enterprise Fund like the Raleigh Farmers Market. | ($22,000) | R | ($22,000) | R |
| **19 Lumberton Ag Center and Farmers Market**<br>Eliminates recurring funding for the Lumberton Agricultural Center and Farmers Market and makes the funding nonrecurring for FY 2011-12. The Fiscal Research Division will perform a Justification Review of this program. | ($362,230)<br>$362,230<br> | R<br>NR | ($362,230)<br><br>-6.00 | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **20 International Marketing**<br>Provides $500,000 NR for international marketing of North Carolina agricultural products. | $500,000 | NR | | |
| **21 Commodities Marketing**<br>Provides $500,000 NR for the promotion of North Carolina commodities. A portion of these funds shall be used for marketing wineries and producing State winery maps. | $500,000 | NR | | |
| **Plant Industry** | | | | |
| **22 Lime Tonnage Fee**<br>Increases the lime tonnage fee from $0.10 per ton to $0.50 per ton. This fee has not been increased since 1979. | ($250,000) | R | ($250,000) | R |
| **23 Over-realized License Revenue**<br>Directs the Plant Industry Division to budget over-realized receipts from business licenses in the Seed and Fertilizer Section. | ($50,000) | R | ($50,000) | R |
| **24 Plant Conservation**<br>Eliminates General Fund support for the Plant Conservation program and transfers the program to receipts provided by the Natural Heritage Trust Fund. This transfer fund shifts the salary and benefits of one position:<br><br>60012489 Plant Ecologist $68,481 | ($68,481)<br>-1.00 | R | ($68,481)<br>-1.00 | R |
| **Research Stations** | | | | |
| **25 Research Grant Funds**<br>Reduces General Fund support for the research stations by $50,000 and directs the Division to increase receipts from University research grants accordingly. Currently few researchers provide funding to the research stations for the services they provide. Researchers are encouraged to include operating support for the research stations in grant proposals and to compensate the research stations for the services they provide. | ($50,000) | R | ($50,000) | R |
| **Vet Services** | | | | |
| **26 Administrative Position**<br>Eliminates one administrative position from the Division of Veterinary Services. The Division is to determine which position to eliminate. The reduction reflects the average salary and benefits of an administrative position within the Division. | ($51,990)<br>-1.00 | R | ($51,990)<br>-1.00 | R |
| **27 License Fees**<br>Increases the license fee for pet shops, public auctions, boarding kennels, and dealers as defined in G.S. 19A-23 from $50 to $75. This fee was last increased in 1989. | ($10,000) | R | ($10,000) | R |

| Senate Subcommittee on Natural and Economic Resources | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **28 Animal Welfare Services**<br>Provides funds for the Animal Welfare Services program to support operations. | $120,000 | R | $120,000 | R |
| **Total Legislative Changes** | **($2,366,555)** | **R** | **($2,366,555)** | **R** |
| | **$12,096,590** | **NR** | **$8,790,386** | **NR** |
| **Total Position Changes** | -17.00 | | -23.00 | |
| **Revised Budget** | **$71,484,049** | | **$68,177,845** | |

# Labor

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$16,842,679** | | **$16,842,679** | |
| **Legislative Changes** | | | | |
| **Department-Wide** | | | | |
| **29 Cell Phones**<br>Reduces General Fund appropriation for cell phones across the Department by 25%. The Department is to reduce the actual number of phones by this percentage as well. | ($10,074) | R | ($10,074) | R |
| **30 Motor Fleet Management**<br>Reduces General Fund appropriation for Motor Fleet Management expenditures across the Department by 10%. The Department is to reduce the actual number of Motor Fleet Management vehicles by this percentage as well. | ($22,635) | R | ($22,635) | R |
| **Administration** | | | | |
| **31 Operating Budget**<br>Reduces the operating budget for the Administration Division. | ($81,241) | R | ($81,241) | |
| **32 IT Operating Budget**<br>Reduces the IT operating budget for the Administration Division. | ($255,000) | R | ($255,000) | R |
| **33 Vacant Position**<br>Eliminates the salary and benefits of 1.0 vacant position:<br>60012904 Labor Library Assistant $48,414 | ($48,414)<br>-1.00 | R | ($48,414)<br>-1.00 | R |
| **Occupational Safety and Health** | | | | |
| **34 Agricultural Safety & Health Vacant Position and Salary Reserve**<br>Eliminates the salary and benefits of 1.0 vacant Agricultural Safety & Health position and department-wide salary reserve:<br>60013261 Processing Assistant IV ($53,579)<br>Department-wide salary reserve ($25,760) | ($79,339)<br>-1.00 | R | ($79,339)<br>-1.00 | R |
| **Standards and Inspections** | | | | |
| **35 Apprenticeship Bureau**<br>Transfers $350,000 in Workforce Investment Act funds from the Department of Commerce to the Department of Labor to be used for the recurring operating costs of the Apprenticeship Program. | | | | |

| Senate Subcommittee on Natural and Economic Resources | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **36 Mine & Quarry Vacant Position and Salary Reserve** | ($81,560) | R | ($81,560) | R |
| Eliminates salary and benefits of 1.0 vacant position in the Mine & Quarry Bureau and department-wide salary reserve: | -1.00 | | -1.00 | |
| 60012967 Mine Safety & Health Representative ($69,900) | | | | |
| Department-wide salary reserve ($11,660) | | | | |
| **37 Employment Discrimination Bureau Vacant Position** | ($83,622) | R | ($83,622) | R |
| Eliminates the salary, benefits, salary reserve, and operating costs associated with 1.0 vacant position: | -1.00 | | -1.00 | |
| 60013056 Employment Discrimination Investigator ($70,116) | | | | |
| Salary reserve ($7,981) | | | | |
| Operating costs ($5,525) | | | | |
| **38 Positions to Receipts and Reduction to Department-wide Salary Reserve** | ($343,907) | R | ($343,907) | R |
| Shifts the salary and benefits of 5.0 positions to receipt support: | -5.00 | | -5.00 | |
| 60013001 Executive Assistant I $56,190 | | | | |
| 60012894 Accounting Technician $45,991 | | | | |
| 60012897 Administrative Assistant I $53,488 | | | | |
| 60012899 Accounting Technician $52,688 | | | | |
| 60012982 Deputy Commissioner Standards & Insp. $114,402 | | | | |
| Department-wide Salary Reserve $21,148 | | | | |
| **Total Legislative Changes** | **($1,005,792)** | R | **($1,005,792)** | R |
| **Total Position Changes** | -9.00 | | -9.00 | |
| **Revised Budget** | **$15,836,887** | | **$15,836,887** | |

# Environment & Natural Resources

GENERAL FUND

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **Recommended Continuation Budget** | **$188,972,401** | | **$188,972,401** | |

**Legislative Changes**

**(1.0) Department-wide**

**39 Filled and Vacant Positions** ($1,099,424) R ($1,099,424) R

Eliminates funding for the salaries and benefits of 14.22 positions and associated operating costs across the Department of Environment and Natural Resources: -14.22 -14.22

| | | | |
|---|---|---|---|
| 60035952 | Policy Development Analyst | (1.00) | $75,759 |
| 60035964 | Environmental Engineer | (1.00) | $87,173 |
| 65010186 | Engineer | (1.00) | $78,137 |
| 60091478 | Administrative Asst. II | (1.00) | $43,760 |
| 60035980 | Artist Illustrator II | (1.00) | $53,067 |
| 60035995 | Personnel Analyst I | (1.00) | $50,036 |
| 60035987 | Workers' Comp Program Manager | (1.00) | $69,074 |
| 60036011 | Accounting Mgr | (1.00) | $110,318 |
| 60035072 | Environmental Program Supv II | (0.22) | $20,436 |
| 60035963 | Environmental Specialist | (1.00) | $57,919 |
| 60035956 | Environmental Specialist | (1.00) | $71,954 |
| 60032412 | Hydrogeologist | (1.00) | $104,765 |
| 60035959 | Administrative Asst. | (1.00) | $50,770 |
| 60036076 | GIS Specialist | (1.00) | $89,804 |
| 60036067 | Appl Svcs Mgr/Spec. Projects | (1.00) | $113,266 |
| | Operating costs | | $23,186 |

**40 Cell Phones** ($112,250) R ($112,250) R

Reduces General Fund appropriation for cell phones across the Department by 25%. The Department is to reduce the actual number of phones by this percentage as well.

**41 Longevity** ($100,000) R ($100,000) R

Reduces General Fund appropriation for longevity across the Department to reflect expected longevity needs.

**42 Motor Fleet Management** ($265,029) R ($265,029) R

Reduces General Fund appropriation for Motor Fleet Management expenditures across the Department by 15%. The Department is to reduce the actual number of Motor Fleet Management vehicles by 15% as well.

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **43 Funds for S.B. 709, "Energy Jobs Act"** | | | | |
| Provides $100,000 to the Department, contingent upon the adoption of S.B. 709, "Energy Jobs Act," in order to fulfill the reporting requirements of the bill. These funds shall come from the Mercury Pollution Prevention Fund in the Department of Environment and Natural Resources. | | | | |
| **(1.0) Reserves & Transfers** | | | | |
| **44 Clean Water State Revolving Fund** | | | | |
| Directs the Department to use $5,567,165 of its loan origination fee fund to provide the 20% State match needed to draw down the maximum available federal funds for the Clean Water State Revolving Fund for FY 2011-12. The US EPA has given the Department permission to use these funds for FY 2011-12 only. | | | | |
| **45 Drinking Water State Revolving Fund** | | | | |
| Provides funding to meet the 20% State match requirement for drawing down the maximum available federal funds for the Drinking Water State Revolving Fund for FY 2011-12. | $7,118,600 | NR | | |
| **46 Nature Research Center Operating Reserve** | $417,498 | R | $1,253,590 | R |
| Provides funds for the operations of the Nature Research Center building. The Center is scheduled to open in the spring of 2012. These funds are to be transferred to the Department of Administration for utilities, custodial services, maintenance, pest control, etc. | | | | |
| **47 Nature Research Center Program Operating Reserve** | $1,465,460 | R | $2,269,798 | R |
| Provides the operating funds and staff required to open the Nature Research Center in the spring of 2012. | 22.00 | | 22.00 | |
| **48 Green Square Office Building Operating Reserve** | $956,408 | R | $1,056,408 | R |
| Provides funds for the operations of the Green Square office building, which DENR plans to move into during the summer of 2011. These funds are to be transferred to the Department of Administration for utilities, custodial services, maintenance, pest control, etc. | | | | |
| **49 Plains Barn Operating Reserve** | $128,409 | R | $128,409 | R |
| Provides the operating funds and staff needed to operate the plains barn and paddock at the North Carolina Zoo. | 1.50 | | 1.50 | |
| **50 State Park System Operating Reserve** | $143,030 | R | $364,812 | R |
| Provides the operating funds and staff for a new boat ramp at Kerr Lake State Recreation Area and new facilities and trails at Grandfather Mountain, Gorges, and Deep River State Parks. Since the projects for Kerr Lake State Recreation Area and Gorges State Park will not be complete until later in 2011, positions included for these locations shall have an effective date of April 1, 2012. | 5.00 | | 5.00 | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **51 Grassroots Science Museums Collaborative**<br>Transfers the appropriation for the Grassroots Science Museums Collaborative to Commerce State-Aid. A 15% reduction will be taken when the funds are added into the Commerce State-Aid section, leaving $2,899,885. All nonprofits funded by the Natural and Economic Resources Subcommittee will now be funded out of Commerce State-Aid. | ($3,411,713) | R | ($3,411,713) | R |
| **52 Partnership for the Sounds**<br>Transfers the appropriation for the Partnership for the Sounds to Commerce State-Aid. A 15% reduction will be taken when the funds are added into the Commerce State-Aid section, leaving $409,326 recurring. All nonprofits funded by the Natural and Economic Resources Subcommittee will now be funded out of Commerce State-Aid. | ($481,560) | R | ($481,560) | R |
| **(1.0) Administration** | | | | |
| **53 Vacant Positions**<br>Eliminates two positions within the administrative area of the Department. These two positions had been vacant for more than a year as of March 2011. The reduction includes salaries and benefits for these positions.<br><br>60036049 Departmental Purchasing Agent II $63,832<br>60036070 Networking Specialist $95,219 | ($159,051)<br>-2.00 | R | ($159,051)<br>-2.00 | R |
| **54 Office of Environmental Education and Public Affairs**<br>Reduces the environmental education responsibilities of the Office of Environmental Education and Public Affairs, with two positions to remain to administer the environmental teacher certification program and serve as a liaison with the Department of Public Instruction.<br><br>60036088 Edu. Dev. Consultant $65,772<br>60036090 Edu. Dev. Consultant $75,019<br>60036091 Edu. Dev. Consultant $63,925 | ($246,134)<br>-3.00 | R | ($246,134)<br>-3.00 | |
| **(1.0) Aquariums** | | | | |
| **55 Gate Admissions**<br>Reduces General Fund support for the aquariums and budgets $2 million in gate admissions collected by the three aquariums. Currently, all gate admissions are budgeted in a special fund and are used for capital projects, repairs, maintenance, exhibits, etc. Over $7.5 million from the General Fund will continue to be used to support the aquariums. | ($2,000,000) | R | ($2,250,000) | R |
| **(1.0) Conservation Planning & Comm. Affairs** | | | | |
| **56 Working Lands Program**<br>Eliminates the Working Lands Program and the position associated with this program.<br><br>60036193 Program Development Coordinator $78,195 | ($78,195)<br>-1.00 | R | ($78,195)<br>-1.00 | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **57 Program Staff** | ($279,271) | R | ($279,271) | R |
| Eliminates all remaining General Fund support for the Office of Conservation Planning & Community Affairs and replaces these funds with receipts from the Natural Heritage Trust Fund. All operating expenses and the salaries and benefits associated with three positions are transferred to receipts. | -3.00 | | -3.00 | |

60036191 Program Dev Coordinator $80,859
60036192 Program Dev Coordinator $84,110
60036213 Edu. Dev. Consultant $79,213

**(1.0) Forest Resources**

| | | | | |
|---|---|---|---|---|
| **58 Positions to Receipt Support** | ($485,148) | R | ($485,148) | R |
| Reduces General Fund support for 13 positions, replacing these funds with receipts. Several of the positions shifted are partial positions; in total, 8.8 FTE are transferred to receipts. Positions and the amount shifted to receipts are listed below: | -8.80 | | -8.80 | |

| | | |
|---|---|---|
| 60031721 | Office Assistant III | $16,635 (0.4 FTE) |
| 60031762 | Office Assistant III | $14,260 (0.4 FTE) |
| 60031781 | Office Assistant III | $16,918 (0.4 FTE) |
| 60031786 | Office Assistant III | $16,584 (0.4 FTE) |
| 60031808 | Office Assistant III | $16,182 (0.4 FTE) |
| 60031919 | Office Assistant III | $14,273 (0.4 FTE) |
| 60031944 | Office Assistant III | $15,085 (0.4 FTE) |
| 60031995 | Forester III | $80,712 (1.0 FTE) |
| 60032202 | Extension Educ & Training Spec. | $64,914 (1.0 FTE) |
| 60032214 | Forester III | $73,953 (1.0 FTE) |
| 60032220 | Forestry Technician | $55,449 (1.0 FTE) |
| 60032221 | Forestry Technician | $50,847 (1.0 FTE) |
| 60032224 | Accounting Clerk V | $49,336 (1.0 FTE) |

| | | | | |
|---|---|---|---|---|
| **59 Operating Reduction** | ($2,448,094) | R | ($2,548,094) | R |
| Reduces operating expenses of the Division. | | | | |
| **60 Vacant Position** | ($31,504) | R | ($31,504) | R |
| Eliminates one vacant position in the Division that had been vacant for more than one year as of March 2011. | -1.00 | | -1.00 | |

60031683 Cook $31,504

| | | | | |
|---|---|---|---|---|
| **61 Turnbull Educational State Forest** | ($87,317) | R | ($87,317) | R |
| Replaces General Fund appropriation for the Turnbull Educational State Forest with receipts generated by the Turnbull forest. | -1.00 | | -1.00 | |
| **62 Aviation Base System** | ($40,000) | R | ($40,000) | R |
| Directs the Division to transition to a three base system for aircraft. Currently the Division operates nine bases across the State. The Conklin & de Decker report issued in late 2010 recommended the three base system. | | | | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **63 Forest Resources**<br>Transfers the Division of Forest Resources from the Department of Environment and Natural Resources to the Department of Agriculture and Consumer Services. | | | | |
| **(1.0) Marine Fisheries** | | | | |
| **64 Operating Expenses**<br>Reduces operating expenses across the Division. | ($168,910) | R | ($168,910) | R |
| **65 Operating Expenses to Receipt Support**<br>Transfers operating expenses within the Division to commercial fishing receipts. | ($200,000) | R | ($200,000) | R |
| **66 Position Changes**<br>Eliminates three permanent positions within the Division: one vacant, two filled, and one temporary position. | ($202,937)<br>-3.00 | R | ($202,937)<br>-3.00 | R |
| Filled<br>60032651 M.F. Biologist II $67,900<br>60032556 M.F. Biologist II $56,225<br><br>Vacant<br>60032552 Processing Asst IV $38,761<br><br>Temporary Position $40,051 | | | | |
| **67 Positions to Receipt Support**<br>Transfers the salaries and benefits of six positions to federal grant funds. | ($297,116)<br>-6.00 | R | ($297,116)<br>-6.00 | R |
| 60032644 Marine Fisheries Biologist II $52,330<br>60032649 Marine Fisheries Technician II $38,586<br>60032560 Marine Fisheries Biologist II $62,495<br>60032650 Marine Fisheries Technician III $52,789<br>60032645 Marine Fisheries Technician II $38,586<br>60032642 Marine Fisheries Biologist II $52,330 | | | | |
| **68 Columbia Office**<br>Closes the Columbia Office of the Division of Marine Fisheries. This reduction includes rent and operating expenses associated with the office. | ($55,902) | R | ($55,902) | R |
| **69 River Herring Program**<br>Reduces funding for river herring research. This reduction leaves approximately $65,000 and one position to continue to monitor river herring. | ($85,000) | R | ($85,000) | R |
| **70 Oyster Sanctuary Program**<br>Eliminates funding for the Oyster Sanctuary Program. | ($1,451,778) | R | ($1,451,778) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **71 Shellfish Rehabilitation Program**<br>Reduces funding for the Shellfish Rehabilitation program, leaving $315,000 to support the Oyster Shell Recycling program and oyster sanctuary construction projects. This reduction reduces operating funds. | ($260,000) | R | ($260,000) | R |
| **72 Fishery Resource Grant Program**<br>Eliminates the Fishery Resource Grant Program. This program was funded by the Division of Marine Fisheries but operated by the SeaGrant program at North Carolina State University. | ($300,000) | R | ($300,000) | R |
| **73 Shellfish Mapping Program**<br>Reduces operating funds as well as the salaries and benefits for five positions associated with the Shellfish Mapping Program. Four of these positions are filled and one is vacant. | ($281,168)<br>-5.00 | R | ($281,168)<br>-5.00 | R |
| Filled<br>60032714 M.F. Technician II $ 38,896<br>60032771 M.F. Technician II $ 40,200<br>60032772 M.F. Technician II $ 43,584<br>60032774 M.F. Technician II $ 38,586<br><br>Vacant<br>60032773 M.F. Technician II $ 38,896 | | | | |
| **74 Shellfish Sanitation and Recreational Water Quality**<br>Moves the Shellfish Sanitation and Recreational Water Quality program from the Division of Environmental Health to the Division of Marine Fisheries. | $1,772,789<br>24.75 | R | $1,772,789<br>24.75 | R |
| **(1.0) Museum of Natural Sciences** | | | | |
| **75 Position Changes**<br>Eliminates five filled positions within the Division. This reduction includes the salaries and benefits of these positions. | ($245,180)<br>-5.00 | R | ($245,180)<br>-5.00 | R |
| 60035038 Natural Science Curator I $47,502<br>60035013 Art Exhibit Design Technician $48,617<br>60034968 Art Exhibit Design Technician $46,310<br>60034980 Natural Science Research Curator II $62,733<br>60034966 Maintenance Mechanic II $40,018 | | | | |
| **76 Temporary Wages**<br>Reduces temporary wages in the Division. | ($189,732) | R | ($189,732) | R |
| **(1.0) North Carolina Zoo** | | | | |
| **77 Operating Expenses**<br>Reduces General Fund operating expenses at the NC Zoo by approximately 6.5%. The NC Zoo may offset this reduction by increasing fees for gate admissions by $2. | ($806,396) | R | ($806,396) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **78 Operations to Receipt Support**<br>Budgets $493,604 in receipts generated by the NC Zoo from revenue sources such as gate admissions, carousel rides, and stroller rentals. These receipts are over-realized and are currently deposited into the Special Zoo Fund. | ($493,604) | R | ($493,604) | R |
| **79 Gift Shops**<br>Outsources at least three gift shops operated by the North Carolina Zoo. Outsourcing the NC Zoo's gift shops will eliminate six filled positions and one vacant position. | ($603,198)<br>-7.00 | R | ($603,198)<br>-7.00 | R |
| 60033433 Sales Manager I $33,260<br>60033304 Sales Manager I $32,505<br>60033404 Sales Manager I $34,235<br>60033403 Sales Manager II $35,133<br>60033402 Sales Manager II $36,506<br>60033459 Stock Clerk I $34,203<br>60033405 Sales Manager I $32,505 | | | | |
| **80 Vacant Positions**<br>Eliminates two positions in the Division that had been vacant for more than one year as of March 2011. This reduction includes the salaries and benefits for these positions. | ($68,846)<br>-2.00 | R | ($68,846)<br>-2.00 | R |
| 60033308 Grounds Worker $32,505<br>60033295 Vehicle Operator II $36,341 | | | | |
| **(1.0) Parks & Recreation** | | | | |
| **81 Operating Expenses**<br>Transfers $6 million in Parks and Recreation Trust Fund receipts to the Division of Parks and Recreation to support park operations for the biennium. | ($6,000,000) | NR | ($6,000,000) | NR |
| **82 Operation Reduction**<br>Reduces operating expenses for the Division of Parks and Recreation. | ($1,012,500) | R | ($1,012,500) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **83 Vacant Positions** | ($856,447) | R | ($856,447) | R |
| Eliminates 18 vacant positions in the Division. This reduction includes the salaries and benefits for these positions. | -18.00 | | -18.00 | |

| | | |
|---|---|---|
| 65007762 | Maintenance Mechanic IV | $ 43,651 |
| 65007760 | Maintenance Mechanic III | $ 39,789 |
| 60032890 | Park Ranger | $ 45,510 |
| 60032962 | Maintenance Mechanic IV | $ 42,294 |
| 65010034 | Maintenance Mechanic IV | $ 46,323 |
| 65010033 | Natural Science Curator II | $ 58,201 |
| 65009861 | Office Assistant IV | $ 42,740 |
| 65009844 | Park Ranger | $ 58,322 |
| 65009846 | Park Ranger | $ 56,460 |
| 60033075 | Park Ranger | $ 42,809 |
| 60033072 | Park Ranger | $ 47,721 |
| 60033208 | Park Ranger | $ 43,392 |
| 60032923 | Park Ranger | $ 45,438 |
| 60032970 | Maintenance Mechanic III | $ 39,789 |
| 60033159 | Parks Designer II | $ 72,069 |
| 60032974 | Maintenance Mechanic III | $ 44,165 |
| 60033046 | Park Ranger | $ 44,806 |
| 60033057 | Park Ranger | $ 42,968 |

**(1.0) Soil & Water Conservation**

| | | | | |
|---|---|---|---|---|
| **84 Operating Reduction** | ($28,719) | R | ($28,719) | R |
| Reduces operating expenses in the Division. | | | | |
| **85 Filled Positions** | ($105,990) | R | ($105,990) | R |
| Eliminates the salary and benefits of two filled positions in the Division. | -2.00 | | -2.00 | |

| | | |
|---|---|---|
| 60032335 | Environmental Specialist | $53,355 |
| 60032377 | Info & Communication Spec. I | $52,635 |

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|---|---|---|---|---|
| **86 Soil & Water Conservation Districts** | ($68,000) | R | ($68,000) | R |
| Reduces funding for soil and water conservation districts by $708 per district. This reduction cuts local matching funds by 10%, or $400 per district. The remainder of the reduction is from funds provided for subsistence expenses for local Supervisors. This reduction means that lunch will no longer be reimbursed on days when the local district boards meet. | | | | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **87 Routine Animal Operating Inspections** | ($472,725) | R | ($472,725) | R |
| Ends the routine operating inspections of animal operations performed by the Division. Both the Division of Soil & Water Conservation and the Division of Water Quality inspect these operations. This reduction eliminates seven positions, their salaries and benefits, and associated operating costs. Two positions remain to provide technical assistance, conduct voluntary inspections, and respond to critical emergencies. | -7.00 | | -7.00 | |

| | | |
|---|---|---|
| 60032353 | Env. Specialist | $60,358 |
| 60032354 | Env. Specialist | $51,649 |
| 60032355 | Env. Program Supervisor II | $83,575 |
| 60032358 | Engineer | $61,444 |
| 60032359 | Env. Specialist | $51,649 |
| 60032366 | Env. Specialist | $53,698 |
| 60032356 | Env. Specialist | $56,222 |

| | | | | |
|---|---|---|---|---|
| **88 Cooperative Soil Survey Program** | ($105,352) | R | ($105,352) | R |
| Reduces operating funds and positions that support the Cooperative Soil Survey Program. This program conducts soil surveys that show the nature and distribution of various kinds of soil within a county and are used on a technical basis for land use decisions. This activity will now be carried out by local governments and the USDA Natural Resource Conservation Service. One position remains to provide technical assistance to local governments. | -2.00 | | -2.00 | |

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|---|---|---|
| 60032322 | Soil Specialist | $52,676 |
| 60032324 | Soil Specialist | $52,676 |

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|---|---|---|---|---|
| **89 Animal Waste Pilot Program** | ($51,880) | R | ($51,880) | R |
| Ends the Animal Waste Pilot Program extended in S.L.2009-84. The pilot program currently operates in four counties (Pender, Jones, Columbus, and Brunswick) and is scheduled to sunset in September of 2011. There is one position associated with this program. This reduction includes salary and benefits for this position. | -1.00 | | -1.00 | |

| | | |
|---|---|---|
| 60032357 | Environmental Specialist | $51,880 |

**90 Soil & Water Conservation**

Transfers the Division of Soil and Water Conservation from the Department of Environment and Natural Resources to the Department of Agriculture and Consumer Services.

## (2.0) Coastal Management

| | | | | |
|---|---|---|---|---|
| **91 Positions to Receipt Support** | ($314,075) | R | ($314,075) | R |
| Shifts the salary and benefits of 5.0 positions to receipt support: | -5.00 | | -5.00 | |

| | | |
|---|---|---|
| 60031539 | Office Assistant IV | $47,372 |
| 60031553 | District Planner | $61,397 |
| 60031533 | Asst Major Permit Coordinator | $63,651 |
| 60031546 | Rule Making & Policy Analyst | $68,840 |
| 60031601 | Compliance & Enforcement Field Rep. | $72,815 |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **92 Raleigh Office** | ($109,523) | R | ($109,523) | R |
| Closes the Raleigh Office of the Division of Coastal Management and eliminates 1.0 filled receipt-supported position. The Department shall fund shift other positions and operating costs within the Division to be supported by these federal receipts. | -1.00 | | -1.00 | |
| 60031545 Asst Dir For Policy & Planning $109,523 | | | | |
| **(2.0) Environmental Assistance and Outreach** | | | | |
| **93 Filled Position** | ($113,994) | R | ($113,994) | R |
| Eliminates the salary and benefits of 1.0 filled position: | -1.00 | | -1.00 | |
| 60035066 Environmental Program Manager $113,994 | | | | |
| **94 Customer Service Liaisons** | | | | |
| Directs the Division of Environmental Assistance and Outreach to provide a minimum of one Customer Service Liaison for each of the Department's Regional Offices in order to address customer services issues, complaints, information requests, and the like. | | | | |
| **(2.0) Environmental Health** | | | | |
| **95 Private Well Program** | ($278,129) | R | ($348,372) | R |
| Eliminates operating funding for the Private Well Program and 4.0 filled positions in FY 2011-12: | -4.00 | | -5.00 | |
| 60034257 Environmental Program Supervisor II $73,531<br>60034539 Environmental Health Regional Specialist $63,332<br>60034541 Environmental Health Regional Specialist $58,246<br>60034305 Processing Assistant IV $38,180 | | | | |
| and eliminates the program's remaining position in FY 2012-13: | | | | |
| 60034542 Environmental Health Regional Specialist $55,275 | | | | |
| **96 Vector Control Program** | ($391,311) | R | ($391,311) | R |
| Eliminates operating funding for the Vector Control Program and its 4.26 filled positions: | -4.26 | | -4.26 | |
| 60034360 Enviro. Senior Specialist (1.0 FTE) $72,644<br>60034361 Enviro. Senior Specialist (1.0 FTE) $59,798<br>60034359 Enviro. Program Consultant (1.0 FTE) $84,637<br>60034363 Enviro. Program Consultant (1.0 FTE) $88,214<br>60034358 Pub. Health Pest Mgmt Sec. Chief (0.26 FTE) $23,949 | | | | |
| Mosquito control grant funds will be administered by existing staff within the Division of Public Health. | | | | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **97 Positions Eliminated and Shifted to Receipt Support** | ($389,938) | R | ($389,938) | R |
| Eliminates the salary and benefits of 3.0 positions: | -6.50 | | -6.50 | |
| Filled: | | | | |
| 60034261 Administrative Assistant I $49,013 | | | | |
| 60034543 Administrative Assistant I $41,867 | | | | |
| Vacant: | | | | |
| 60034466 Extension Educ & Training Spec III $56,780 | | | | |
| and fund shifts 3.50 positions to receipt support: | | | | |
| 60034300 Nurse Consultant (1.0 FTE) $74,315 | | | | |
| 60034293 Enviro. Health Regional Spec. (1.0 FTE) $65,844 | | | | |
| 60034495 Enviro. Program Supervisor (0.25 FTE) $19,821 | | | | |
| 60034298 Technology Support Analyst (1.0 FTE) $61,118 | | | | |
| 60034255 Environmental Program Supv I (0.25 FTE) $21,180 | | | | |
| **98 Public Water Supply Positions** | ($202,628) | R | ($202,628) | R |
| Eliminates the salary and benefits of 2.0 vacant positions in the Public Water Supply Section: | -3.00 | | -3.00 | |
| 60034405 Environmental Senior Specialist $59,750 | | | | |
| 60034392 Engineer $98,022 | | | | |
| and 1.0 filled position in the Division Finance Office: | | | | |
| 60034413 Accounting Technician $44,856 | | | | |
| **99 Public Water Supply Program** | ($767,918) | R | ($767,918) | R |
| Transfers the Public Water Supply Program to the Division of Water Resources. | -8.80 | | -8.80 | |
| **100 Food and Lodging Program** | | | | |
| Directs the Division to change the use of the $400,000 appropriation originally intended for aid to counties for local food and lodging programs. The Division is to use those funds to pay for the costs to operate the State elements of the program. Counties will receive a higher percentage of the food and lodging fee that will more than offset not receiving these grant funds. | | | | |
| **101 On-Site Quality Assurance Program** | ($69,792) | R | ($69,792) | R |
| Eliminates funding for the On-Site Quality Assurance Program and its 1.0 position: | -1.00 | | -1.00 | |
| 60034368 Environmental Health Regional Specialist $69,792 | | | | |
| **102 Wastewater Discharge Elimination Program** | ($160,594) | R | ($160,594) | R |
| Eliminates operating funding for the Wastewater Discharge Elimination Program and its 2.0 filled positions: | -2.00 | | -2.00 | |
| 60034370 Environmental Senior Specialist $55,541 | | | | |
| 60034306 Environmental Program Supervisor I $75,547 | | | | |

| Senate Subcommittee on Natural and Economic Resources | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **103 Tick Control Program**<br>Eliminates operating funding for the Tick Control Program and its 1.0 filled position:<br><br>65001605 Environmental Senior Specialist $58,072 | ($139,499)<br>-1.00 | R | ($139,499)<br>-1.00 | R |
| **104 Sleep Products Program**<br>Transfers the Sleep Products Program to the Department of Agriculture and Consumer Services. This program's expenditures of $630,337 and 8.0 positions are fully supported by receipts. | | | | |
| **105 Shellfish Sanitation and Recreational Water Quality**<br>Transfers the Shellfish Sanitation and Recreational Water Quality Program to the Division of Marine Fisheries. | ($1,772,789)<br>-24.75 | R | ($1,772,789)<br>-24.75 | R |
| **106 Transfer to DHHS - Division of Public Health**<br>Eliminates salary and benefits of 2.0 filled positions that will be eliminated as part of the transfer of the Division of Environmental Health to the Division of Public Health in the Department of Health and Human Services:<br><br>60034382 Division Deputy Director $116,617<br>60034417 Information & Communications Spec. I $56,780 | ($173,397)<br>-2.00 | R | ($173,397)<br>-2.00 | R |
| **(2.0) Land Resources** | | | | |
| **107 Eliminate Landslide Mapping Program**<br>Eliminates funding for the salaries and benefits of 6.0 positions and operating costs of the Landslide Mapping Program:<br><br>60032417 Hydrogeologist $88,164<br>60032509 Hydrogeologist $60,272<br>60032510 Hydrogeologist $54,115<br>60032511 Hydrogeologist $54,115<br>60032512 Hydrogeologist $76,301<br>60032414 Hydrogeologist $91,892 | ($479,674)<br>-6.00 | R | ($479,674)<br>-6.00 | R |
| **(2.0) Waste Management** | | | | |
| **108 Operating Budget**<br>Reduces the operating budget of the Division of Waste Management. | ($23,819) | R | ($23,819) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **109 Positions Eliminated and Shifted to Receipt Support** | ($482,878) | R | ($482,878) | R |
| Eliminate the salary and benefits of 3.0 vacant and 1.0 filled positions: | -6.90 | | -6.90 | |

Vacant

| | | | |
|---|---|---|---|
| 60034588 | Hydrogeologist | (1.0 FTE) | $72,226 |
| 60095583 | Engineer | (1.0 FTE) | $83,171 |
| 60034613 | Environmental Sr Specialist | (1.0 FTE) | $59,273 |

Filled

| | | | |
|---|---|---|---|
| 60034616 | Hydrogeologist | (1.0 FTE) | $65,806 |

and fund shifts 2.9 positions to receipt support:

| | | | |
|---|---|---|---|
| 60034617 | Engineer | (0.5 FTE) | $43,137 |
| 60034596 | Environmental Sr Specialist | (0.2 FTE) | $13,644 |
| 60034589 | Environmental Sr Specialist | (0.2 FTE) | $14,245 |
| 60034607 | Environmental Sr Specialist | (1.0 FTE) | $65,101 |
| 60034595 | Environmental Sr Specialist | (0.25 FTE) | $15,438 |
| 60034602 | Environmental Supervisor III | (0.25 FTE) | $21,475 |
| 60034608 | Environmental Sr Specialist | (0.25 FTE) | $14,681 |
| 60034594 | Environmental Sr Specialist | (0.25 FTE) | $14,681 |

| | | | | |
|---|---|---|---|---|
| **110 Vacant Position** | | ($63,764) | R | ($63,764) | R |
| Eliminates the salary and benefits of 1.0 position that has been vacant for over a year as of March 2011: | | -1.00 | | -1.00 | |

60034774 Hydrogeologist $63,764

**(2.0) Water Quality**

| | | | | |
|---|---|---|---|---|
| **111 Vacant Positions** | | ($84,333) | R | ($84,333) | R |
| Eliminates the salary and benefits of 1.59 positions vacant for over one year: | | -1.59 | | -1.59 | |

| | | | |
|---|---|---|---|
| 60035518 | Environmental Senior Specialist | (0.59 FTE) | $39,110 |
| 60035240 | Environmental Senior Technician | (1.0 FTE) | $45,223 |

| | | | | |
|---|---|---|---|---|
| **112 Operating Budget** | | ($442,880) | R | ($442,880) | R |
| Reduces General Fund support of the operating budget of the Division of Water Quality by 15%. | | | | | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **113 Positions Eliminated and Shifted to Receipt Support** | ($1,217,921) | R | ($1,217,921) | R |
| Eliminates the salary and benefits of 6.0 vacant and 2.0 filled positions: | -22.50 | | -22.50 | |

| | | | |
|---|---|---|---|
| 60035140 | Processing Assistant IV | (1.0 FTE) | $40,481 |
| 60035166 | Chemist III | (1.0 FTE) | $74,824 |
| 60035160 | Chemistry Technician III | (1.0 FTE) | $47,705 |
| 60035141 | Chemistry Technician I | (1.0 FTE) | $46,684 |
| 60035489 | Environmental Senior Tech. | (1.0 FTE) | $48,425 |
| 60035466 | Environmental Specialist | (1.0 FTE) | $58,201 |
| 60035229 | Environmental Technician | (1.0 FTE) | $45,887 |
| 60035347 | Environmental Senior Tech. | (1.0 FTE) | $48,594 |

and shifts 14.5 positions to receipt support:

| | | | |
|---|---|---|---|
| 60035164 | Chemistry Technician III | (1.0 FTE) | $46,684 |
| 60035161 | Chemistry Technician III | (0.5 FTE) | $24,752 |
| 60035186 | Processing Assistant IV | (1.0 FTE) | $40,400 |
| 60035139 | Enviro. Prog. Supv. IV | (0.5 FTE) | $50,193 |
| 60035424 | Environmental Engineer | (1.0 FTE) | $70,530 |
| 60035104 | Accounting Clerk IV | (1.0 FTE) | $38,672 |
| 60035398 | Environmental Specialist | (1.0 FTE) | $66,022 |
| 60035170 | Chemistry Technician III | (1.0 FTE) | $50,432 |
| 60035099 | Processing Assistant IV | (1.0 FTE) | $38,043 |
| 60035414 | Environmental Engineer | (1.0 FTE) | $66,250 |
| 60035381 | Environmental Senior Tech. | (1.0 FTE) | $45,181 |
| 60035270 | Enviro. Prog. Supv. III | (0.5 FTE) | $42,999 |
| 60035490 | Environmental Specialist | (1.0 FTE) | $58,350 |
| 60035231 | Environmental Specialist | (1.0 FTE) | $55,793 |
| 60035467 | Environmental Senior Tech. | (1.0 FTE) | $49,798 |
| 60035472 | Environmental Engineer | (1.0 FTE) | $63,021 |

**(2.0) Water Resources**

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|---|---|---|---|---|
| **114 Public Water Supply Section from Environmental Health** | $767,918 | R | $767,918 | R |
| Transfers the Public Water Supply Section from the Division of Environmental Health to the Division of Water Resources. | 8.80 | | 8.80 | |
| **115 Transfer from Capital Improvement Funds** | | | | |
| Transfers $564,227 from Division of Water Resources Capital Improvement funds to Division of Water Resources on a nonrecurring basis for FY 2011-12 and reduces the General Fund operating budget in a like amount. | ($564,227) | NR | | |
| **Total Legislative Changes** | **($21,763,414)** | **R** | **($20,221,445)** | **R** |
| | **$554,373** | **NR** | **($6,000,000)** | **NR** |
| **Total Position Changes** | -132.27 | | -133.27 | |
| **Revised Budget** | **$167,763,360** | | **$162,750,956** | |

# DENR-Clean Water Management Trust Fund

GENERAL FUND

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **Recommended Continuation Budget** | **$100,000,000** | | **$100,000,000** | |
| **Legislative Changes** | | | | |
| **Department-wide** | | | | |
| **116 Operating Reduction**<br>Provides $12.5 million to the Clean Water Management Trust Fund. In addition, the bill repeals G.S. 113A-253.1, which set the Trust Fund's annual appropriation at $100 million. | ($87,500,000) | R | ($87,500,000) | R |
| **Total Legislative Changes** | **($87,500,000)** | R | **($87,500,000)** | R |
| **Total Position Changes** | | | | |
| **Revised Budget** | **$12,500,000** | | **$12,500,000** | |

# Commerce

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$38,907,381** | | **$38,907,381** | |
| **Legislative Changes** | | | | |
| **Department-wide** | | | | |
| **117 Employment Security Commission Merger**<br>Reduces expenditures due to the merger of the Employment Security Commission with the Department of Commerce. This reduction assumes an effective date of November 1, 2011 for the transfer. This transfer shall be done in accordance with S.B. 532. | ($251,376) | R | ($377,064) | R |
| **118 Governor's Office Transfer**<br>Eliminates funding from various account codes (1x-5x) across the Department which have been used to transfer funds to the Governor's Office to pay for salary and benefits for one position. The Department shall not transfer funds to the Governor's Office for this purpose. | ($192,354) | R | ($192,354) | R |
| **119 Salary and Operating Reductions to Align Budget**<br>Reduces various accounts (1x-5x) across the Department such that the Department may properly budget contracts with the Attorney General's Office, rather than using lapsed salary and operating line items for this purpose. | ($235,558) | R | ($235,558) | R |
| **120 Cell Phones**<br>Reduces cell phones expenditures across the Department by 30%. The Department is to reduce the actual number of cell phones by this percentage as well. | ($7,000) | R | ($7,000) | R |
| **121 Motor Fleet Management**<br>Reduces Motor Fleet Management expenses by 10%. The Department is to reduce the actual number of Motor Fleet Management vehicles by 10% as well. | ($27,647) | R | ($27,647) | R |
| **Department-wide Reserves and Transfers** | | | | |
| **122 Rural Electrification Authority**<br>Appropriates $150,000 to be transferred to the Rural Electrification Authority (budget code 54600 5241). In section 2.2(g) of S.L. 2009-451, $210,240 was transferred from this fund to General Fund availability. | $150,000 | NR | | |
| **Administration** | | | | |
| **123 Administrative Assistant**<br>Eliminates the salary and benefits for one filled administrative assistant position (60077162). | ($54,640)<br>-1.00 | R | ($54,640)<br>-1.00 | R |

| Senate Subcommittee on Natural and Economic Resources | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **124 Attorney General Contracts**<br>Directs the Department to properly budget its Attorney General contracts as a separate 2x account line. | $235,558 | R | $235,558 | R |
| **125 Assistant Secretary for Community Development**<br>Transfers the salary and benefits for the Assistant Secretary for Community Development position (60077156) from the Administration fund code (1111) to the Division of Community Assistance fund code (1620) so that the funding can be properly aligned in the correct division. The Department shall physically locate the Assistant Secretary in the same building as the majority of the division's employees. | ($125,101)<br>-1.00 | R | ($125,101)<br>-1.00 | R |
| **126 Assistant Secretary for Policy, Research, and Strategic Planning (PRSP)**<br>Transfers the Assistant Secretary position (60077183) from the Administration fund code (1111) to the PRSP fund code (1130) so that the funding can be properly aligned in the correct division. | ($125,720)<br>-1.00 | R | ($125,720)<br>-1.00 | R |
| **127 Director of Rural Development Programs**<br>Eliminates the salary and benefits for the position of Director of Rural Development Programs (60077188). This position oversees the 21st Centuries Communities Program, which is eliminated, and administers Community Development Block Grant (CDBG) programs which can be handled by existing CDBG staff. The Certified Retirement Communities Program shall be transferred to the Division of Tourism, Film, and Sports Development and administered by existing staff. | ($99,308)<br>-1.00 | R | ($99,308)<br>-1.00 | R |
| **128 Public Affairs Staff Reduction**<br>Eliminates the salary and benefits for one filled position (60077186) in the Secretary's Office, Public Affairs section. | ($42,289)<br>-1.00 | R | ($42,289)<br>-1.00 | R |
| **BLNC - Business Link North Carolina** | | | | |
| **129 Director Position**<br>Eliminates the salary and benefits for the director position (60080987) for BLNC. Employees in this division will report to the Director of Business and Industry. | ($131,110)<br>-1.00 | R | ($131,110)<br>-1.00 | R |
| **Business and Industry** | | | | |
| **130 Transfer to Biotechnology Center**<br>Eliminates the transfer to the Biotechnology Center. The Department and the Biotechnology Center are encouraged to continue the Memorandum of Understanding but without the use of Commerce funds to pay for Biotechnology Center expenses. | ($64,125) | R | ($64,125) | R |
| **131 Trade Shows**<br>Reduces funding for trade shows. | ($50,000) | R | ($50,000) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **132 Vacant Positions** | ($141,727) | R | ($141,727) | R |
| Eliminates the salaries and benefits for two positions which have been vacant for more than one year as of March 2011: | -2.00 | | -2.00 | |
| 60080967 Econ Development Rep $58,413<br>60080979 Client Development Manager $83,314 | | | | |
| **Commerce Finance Center** | | | | |
| **133 Industrial Development Fund** | ($320,107) | R | ($320,107) | R |
| Eliminates the General Fund appropriation for the Industrial Development Fund. Funding will remain available from loan repayments and in the fund balance to fulfill existing obligations. | | | | |
| **134 Jobs Maintenance and Capital Development Fund (JMAC)** | | | | |
| Appropriates $6,000,000 for Bridgestone/Firestone and Goodyear agreements for the 2010 grant year. | $6,000,000 | NR | | |
| **135 One North Carolina Fund** | | | | |
| Provides additional funding for the One North Carolina Fund. | $10,000,000 | NR | | |
| **136 Broadband Connectivity** | | | | |
| Provides $1 million non-recurring for the CDBG-Economic Development section to incent private businesses to provide broadband connectivity. Priority shall be given to unserved areas in mixed urban-rural counties and then to unserved areas in mainly rural counties. The Department shall work with the Rural Economic Development Center in developing and implementing this grant program. | $1,000,000 | NR | | |
| **Community Assistance** | | | | |
| **137 Assistant Secretary Position** | $125,101 | R | $125,101 | R |
| Transfers the salary and benefits for the Assistant Secretary for Community Development position (60077156) from the Administration fund code (1111) into the Division of Community Assistance fund code (1620) so that the funding can be properly aligned in the correct division. The Department shall physically locate the Assistant Secretary in the same building as the majority of the division's employees. | 1.00 | | 1.00 | |
| **138 Senior Advisor/Director Position** | ($117,624) | R | ($117,624) | R |
| Eliminates the salary and benefits for the position of director (60081167). This division also has an Assistant Secretary, and thus the director position is eliminated to more properly align span of control. | -1.00 | | -1.00 | |
| **139 Vacant Position** | ($71,536) | R | ($71,536) | R |
| Eliminates the salary and benefits for one Planner position (60081202) vacant for more than one year as of March 2011. | -1.00 | | -1.00 | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **140 21st Century Communities**<br>Eliminates operating funding for the 21st Century Communities program and the salaries and benefits for three filled positions. This program was designed to certify counties to be ready for the 21st Century and is no longer needed.<br><br>60081236 Planner $58,074<br>60081237 Planner $55,541<br>60081238 Planner $63,013 | ($244,699)<br>-3.00 | R | ($244,699)<br>-3.00 | R |
| **141 Filled Positions**<br>Eliminates the salaries and benefits for five filled positions and associated operating costs within the Division. Funding will still be sufficient to meet Community Development Block Grant (CDBG) match requirements.<br><br>60081178 Office Assistant IV $31,634<br>60081182 Comm Dev Planner I $57,511<br>60081198 Comm Dev Planner II $62,238<br>60081205 Office Assistant IV $34,305<br>60089504 Comm Dev Planner I $74,135<br><br>Operating Expenses $36,354 | ($296,177)<br>-5.00 | R | ($296,177)<br>-5.00 | R |
| **Energy** | | | | |
| **142 Pass-through Funding to Universities**<br>Eliminates pass-through funding to the Energy Center at North Carolina A&T State University. Provides $500,000 in FY 2011-12 and $778,150 in FY 2012-13 for the Solar Center at North Carolina State University to continue energy efficiency programs. $300,000 of this funding shall be used for the Energy Management Program within the Energy Efficiency and Environmental Research in the Department of Mechanical & Aerospace Engineering. No funds shall be used for advertising or promotion of the Solar Center.<br><br>Provides $200,000 in FY 2011-12 and $311,260 in FY 2012-13 to the Appalachian Energy Center at Appalachian State University. | ($1,855,500) | R | ($1,466,090) | |
| **143 Operating Reduction**<br>Reduces operating expenses (2x-5x) in the division by $21,120, leaving $154,716 for these purposes. | ($21,120) | R | ($21,120) | R |
| **144 Filled Position**<br>Eliminates the salary and benefits for one filled Engineer position (60014891) who currently is assigned to the Utility Savings Initiative program. | ($78,880)<br>-1.00 | R | ($78,880)<br>-1.00 | R |
| **Industrial Commission** | | | | |
| **145 Over-realized Receipts**<br>Directs the Industrial Commission to budget over-realized receipts. | ($736,861) | R | ($736,861) | R |

| Senate Subcommittee on Natural and Economic Resources | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **International Trade** | | | | |
| **146 Trade Shows**<br>Reduces funding for trade shows. | ($50,000) | R | ($50,000) | R |
| **Management Information Systems** | | | | |
| **147 Division Director**<br>Eliminates the salary and benefits for the director position (60080825) for the Management Information Systems division. | ($153,218)<br>-1.00 | R | ($153,218)<br>-1.00 | R |
| **148 Operating Funds**<br>Reduces operating expenses (2x-5x) in the division by $18,552, leaving $163,790 for these purposes. | ($18,552) | R | ($18,552) | R |
| **Office of Science and Technology** | | | | |
| **149 Continuation Review**<br>Eliminates recurring funding for the Office of Science and Technology and makes the funding nonrecurring for FY 2011-12. This program is subject to continuation review. | ($215,599)<br>$215,599 | R<br>NR | ($215,599)<br>-2.00 | R |
| **Policy, Research, and Strategic Planning** | | | | |
| **150 Assistant Secretary Position**<br>Transfers the Assistant Secretary position (60077183) from the Administration fund code (1111) into the Policy, Research, and Strategic Planning fund code (1130) so that the funding can be properly aligned in the correct division. | $125,720<br>1.00 | R | $125,720<br>1.00 | R |
| **151 Operating Expenses**<br>Reduces operating expenses (2x-5x) in the division by $10,000, leaving $200,753 for these purposes. | ($10,000) | R | ($10,000) | R |
| **Tourism, Film, and Sports Development** | | | | |
| **152 Advertising and Marketing the State as a Tourist Destination**<br>Reduces funding for advertising and marketing the State as a tourist destination by $1,000,000, leaving $7,382,399 for these purposes. | ($1,000,000) | R | ($1,000,000) | R |
| **153 Welcome Centers Position**<br>Eliminates the salary and benefits for an Office Assistant IV position (60080870) which has been vacant for more than a year as of March 2011. | ($39,102)<br>-1.00 | R | ($39,102)<br>-1.00 | R |
| **154 Welcome Centers Brochure Fees**<br>Reduces the recurring appropriation to the Welcome Centers by $500,000. The Department will implement a new brochure fee to offset the General Fund reduction. | ($500,000) | R | ($500,000) | R |
| **155 Wine and Grape Grower's Council**<br>Eliminates funding for the Wine and Grape Grower's Council, including the salary and benefits for one filled position (60080945). | ($732,380)<br>-1.00 | R | ($732,380)<br>-1.00 | R |

| Senate Subcommittee on Natural and Economic Resources | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **Wanchese Seafood Industrial Park** | | | | |
| **156 Capital and Operating Funds**<br>Eliminates funding most recently used for capital projects and operating expenses. | ($248,327) | R | ($248,327) | R |
| **157 Receipt Support**<br>Shifts the Park to receipt support over the two years of biennium. | ($75,000) | R | ($167,416)<br>-1.00 | R |
| **Workforce Development** | | | | |
| **158 Workforce Investment Act Funds**<br>Transfers $350,000 in Workforce Investment Act funds from the Department of Commerce to the Department of Labor to be used for the recurring operating costs of the Apprenticeship Program. | | | | |
| **Total Legislative Changes** | **($7,846,258)**<br>**$17,365,599** | R<br>NR | **($7,674,952)** | R |
| **Total Position Changes** | -20.00 | | -23.00 | |
| **Revised Budget** | **$48,426,722** | | **$31,232,429** | |

# Commerce - State Aid

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$31,169,289** | | **$31,169,289** | |
| **Legislative Changes** | | | | |
| **159 Ag in the Classroom**<br>Transfers the appropriation for Ag in the Classroom from Agriculture to Commerce State-Aid. All nonprofits funded by the Natural and Economic Resources Subcommittee will now be funded out of Commerce State-Aid. | $22,077 | R | $22,077 | R |
| **160 Association of CDCs**<br>Reduces the recurring pass-through appropriation for the Association of CDCs by 15%, leaving $833,582. | ($147,103) | R | ($147,103) | R |
| **161 Biofuels Center**<br>Reduces the recurring pass-through appropriation for the Biofuels Center by 20%, leaving $4,000,000 recurring. | ($1,000,000) | R | ($1,000,000) | R |
| **162 Councils of Government (COGs)**<br>Reduces the recurring pass-through appropriation for the COGs. | ($60,563) | R | ($60,563) | R |
| **163 Community Development Initiative**<br>Reduces the recurring pass-through appropriation for the Community Development Initiative by 15%, leaving $3,980,329. | ($702,411) | R | ($702,411) | R |
| **164 e-NC Authority**<br>Eliminates all funding to the e-NC Authority. | ($442,035) | R | ($442,035) | R |
| **165 FFA Foundation**<br>Transfers the appropriation for the FFA Foundation from Agriculture to Commerce State-Aid. A 15% reduction is taken, leaving $37,531 recurring. All nonprofits funded by the Natural and Economic Resources Subcommittee will now be funded out of Commerce State-Aid. | $37,531 | R | $37,531 | R |
| **166 Grassroots Science Museums**<br>Transfers the appropriation for the Grassroots Science Museums Collaborative from DENR to Commerce State-Aid. A 15% reduction is taken, leaving $2,899,885 recurring. All nonprofits funded by the Natural and Economic Resources Subcommittee will now be funded out of Commerce State-Aid. | $2,899,885 | R | $2,899,885 | R |
| **167 High Point Furniture Market**<br>Reduces the recurring pass-through appropriation for the High Point Furniture Market by 15%, leaving $685,507 recurring. | ($120,972) | R | ($120,972) | R |

| Senate Subcommittee on Natural and Economic Resources | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **168 Indian Economic Development Initiative**<br>Provides recurring funding to the Indian Economic Development Initiative. | $90,000 | R | $90,000 | R |
| **169 Institute for Regenerative Medicine**<br>Reduces the recurring pass-through appropriation for the Institute for Regenerative Medicine. | ($2,000,000) | R | ($1,660,589) | R |
| **170 Land Loss Prevention Project**<br>Reduces the recurring pass-through appropriation for the Land Loss Prevention Project by 15%, leaving $601,345. | ($106,119) | R | ($106,119) | R |
| **171 Institute of Minority Economic Development**<br>Reduces the recurring pass-through appropriation for the Institute of Minority Economic Development by 15%, leaving $2,139,793 recurring. | ($377,612) | R | ($377,612) | R |
| **172 Minority Support Center**<br>Reduces the recurring pass-through appropriation for the Minority Support Center by 15%, leaving $2,659,421. | ($469,309) | R | ($469,309) | R |
| **173 Partnership for the Sounds**<br>Transfers the appropriation for the Partnership for the Sounds from DENR to Commerce State-Aid. A 15% reduction is taken, leaving $409,326 recurring. All nonprofits funded by the Natural and Economic Resources Subcommittee will now be funded out of Commerce State-Aid. | $409,326 | R | $409,326 | R |
| **174 Regional Economic Development Commissions**<br>Eliminates all pass-through funding for the Regional Economic Development Commissions. | ($2,500,000) | R | ($2,500,000) | R |
| **175 RTI International**<br>Provides $500,000 NR for RTI to match US Department of Energy grant funds. | $500,000 | NR | | |
| **Total Legislative Changes** | **($4,467,305)**<br>**$500,000** | **R**<br>**NR** | **($4,127,894)** | **R** |
| **Total Position Changes** | | | | |
| **Revised Budget** | **$27,201,984** | | **$27,041,395** | |

# N.C. Biotechnology Center

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$19,501,900** | | **$19,501,900** | |
| **Legislative Changes** | | | | |
| **176 Operating Funds**<br>Reduces the recurring pass-through appropriation for the Biotechnology Center by 15%, leaving $16,576,615 recurring. | ($2,925,285) | R | ($2,925,285) | R |
| **Total Legislative Changes** | **($2,925,285)** | **R** | **($2,925,285)** | **R** |
| **Total Position Changes** | | | | |
| **Revised Budget** | **$16,576,615** | | **$16,576,615** | |

# Rural Economic Development Center

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$22,640,814** | | **$22,640,814** | |
| **Legislative Changes** | | | | |
| **177 Operating Reductions**<br>Reduces the recurring pass-through appropriation for the Rural Center by 15%, leaving $19,244,692 in recurring funding. | ($3,396,122) | R | ($3,396,122) | R |
| **178 North Carolina Capital Access Program**<br>Provides $12,500,000 in nonrecurring funding for FY 2011-12 and FY 2012-13 to establish the Income Producing Property Component of the North Carolina Capital Access Program. | $12,500,000 | NR | $12,500,000 | NR |
| **179 North Carolina Small Business Express Loan Fund**<br>Provides $7,500,000 in nonrecurring funding for FY 2011-12 and FY 2012-13 to establish the North Carolina Small Business Express Loan Fund. | $7,500,000 | NR | $7,500,000 | NR |
| **Total Legislative Changes** | **($3,396,122)** | **R** | **($3,396,122)** | **R** |
| | **$20,000,000** | **NR** | **$20,000,000** | **NR** |
| **Total Position Changes** | | | | |
| **Revised Budget** | **$39,244,692** | | **$39,244,692** | |

# Wildlife Resources Commission

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$0** | | **$0** | |
| **Legislative Changes** | | | | |
| **180 Operating Funds**<br>Transfers the Wildlife Resource Commission to General Fund support. The expected sales tax transfer of $22.97 million is changed to a $16 million General Fund appropriation. Of the $16 million appropriated to the Commission, $250,000 shall be used to supplement the Beaver Management Assistance Program. These funds shall be in addition to the $349,000 of Commission funds currently obligated for the program. | $16,000,000 | R | $16,000,000 | R |
| **Conservation Education** | | | | |
| **181 Conservation Education**<br>Eliminates recurring funding for the Conservation Education Division and makes the funding nonrecurring for FY 2011-12. This program is subject to Continuation Review. | ($778,821)<br>$778,821 | R<br>NR | ($778,821) | R |
| **Total Legislative Changes** | **$15,221,179**<br>**$778,821** | **R**<br>**NR** | **$15,221,179** | **R** |
| **Total Position Changes** | | | | |
| **Revised Budget** | **$16,000,000** | | **$15,221,179** | |

# Commerce – Enterprise

Budget Code: 54600

| | FY 2011-12 | | FY 2012-13 | |
|---|---|---|---|---|
| **Beginning Unreserved Fund Balance** | **$9,069,749** | | **$8,440,899** | |
| **Recommended Budget** | | | | |
| Requirements | **$4,479,458** | | **$4,479,458** | |
| Receipts | **$4,100,608** | | **$4,100,608** | |
| Positions | **46.00** | | **46.00** | |
| **Legislative Changes** | | | | |
| **Requirements:** | | | | |
| **Transfer to General Fund** | $0 | R | $0 | R |
| Directs the ABC Commission to transfer $250,000 in cash balance to the General Fund for general availability. | $250,000 | NR | $0 | NR |
| | 0.00 | | 0.00 | |
| **Subtotal Legislative Changes** | **$0** | R | **$0** | R |
| | **$250,000** | NR | **$0** | NR |
| | 0.00 | | 0.00 | |
| **Receipts:** | | | | |
| **ABC Commission** | $0 | R | $0 | R |
| | $0 | NR | $0 | NR |
| **Subtotal Legislative Changes** | **$0** | R | **$0** | R |
| | **$0** | NR | **$0** | NR |

Subcommittee on Natural and Economic Resources

| | FY 2011-12 | FY 2012-13 |
|---|---|---|
| **Revised Total Requirements** | **$4,729,458** | **$4,479,458** |
| **Revised Total Receipts** | **$4,100,608** | **$4,100,608** |
| **Change in Fund Balance** | **($628,850)** | **($378,850)** |
| **Total Positions** | **46.00** | **46.00** |
| **Unappropriated Balance Remaining** | **$8,440,899** | **$8,062,049** |

# DENR - Special

Budget Code: 24300

| | FY 2011-12 | FY 2012-13 |
|---|---|---|
| **Beginning Unreserved Fund Balance** | **$2,291,385** | **$2,166,385** |
| **Recommended Budget** | | |
| Requirements | **$1,029,288** | **$1,029,288** |
| Receipts | **$1,029,288** | **$1,029,288** |
| Positions | **0.00** | **0.00** |

**Legislative Changes**

**Requirements:**

| | | |
|---|---|---|
| **Mercury Pollution Prevention Fund** | $0 R | $0 R |
| Provides $100,000 to the Department of Environment and Natural Resources, contingent upon the adoption of S.B. 709, "Energy Jobs Act," in order to fulfill the reporting requirements of the bill. These funds shall come from the Mercury Pollution Prevention Fund in the Department of Environment and Natural Resources. | $0 NR | $0 NR |
| | 0.00 | 0.00 |
| **Mercury Pollution Prevention Fund** | $0 R | $0 R |
| Transfers $125,000 from the cash balance of the Mercury Pollution Prevention Fund to the General Fund for general availability. | $125,000 NR | $0 NR |
| | 0.00 | 0.00 |
| **Subtotal Legislative Changes** | **$0** R | **$0** R |
| | **$125,000** NR | **$0** NR |
| | 0.00 | 0.00 |

**Receipts:**

| | | |
|---|---|---|
| **Mercury Prevention Transfer to General Fund** | $0 R | $0 R |
| | $0 NR | $0 NR |
| **Subtotal Legislative Changes** | **$0** R | **$0** R |
| | **$0** NR | **$0** NR |

Subcommittee on Natural and Economic Resources

| | FY 2011-12 | FY 2012-13 |
|---|---|---|
| **Revised Total Requirements** | $1,154,288 | $1,029,288 |
| **Revised Total Receipts** | $1,029,288 | $1,029,288 |
| **Change in Fund Balance** | ($125,000) | $0 |
| **Total Positions** | 0.00 | 0.00 |
| **Unappropriated Balance Remaining** | $2,166,385 | $2,166,385 |

# DENR - PART F

Budget Code: 24309

| | FY 2011-12 | | FY 2012-13 | |
|---|---|---|---|---|
| **Beginning Unreserved Fund Balance** | **$13,599,484** | | **$201,853** | |
| **Recommended Budget** | | | | |
| Requirements | **$45,793,981** | | **$45,793,981** | |
| Receipts | **$36,613,850** | | **$36,613,850** | |
| Positions | **0.00** | | **0.00** | |
| **Legislative Changes** | | | | |
| **Requirements:** | | | | |
| **Transfer to General Fund** | $0 | R | $0 | R |
| Diverts $4,217,500 million in Deed Stamp tax revenue to the General Fund for general availability. | $4,217,500 | NR | $0 | NR |
| | 0.00 | | 0.00 | |
| **Subtotal Legislative Changes** | **$0** | R | **$0** | R |
| | **$4,217,500** | NR | **$0** | NR |
| | 0.00 | | 0.00 | |
| **Receipts:** | | | | |
| **Transfer to General Fund** | $0 | R | $0 | R |
| | $0 | NR | $0 | NR |
| **Subtotal Legislative Changes** | **$0** | R | **$0** | R |
| | **$0** | NR | **$0** | NR |

Subcommittee on Natural and Economic Resources

| | FY 2011-12 | FY 2012-13 |
|---|---|---|
| **Revised Total Requirements** | **$50,011,481** | **$45,793,981** |
| **Revised Total Receipts** | **$36,613,850** | **$36,613,850** |
| **Change in Fund Balance** | **($13,397,631)** | **($9,180,131)** |
| **Total Positions** | **0.00** | **0.00** |
| **Unappropriated Balance Remaining** | **$201,853** | **($8,978,278)** |

# DENR - Recreational/ Natural Heritage Trust Fund

Budget Code: 64302

| | FY 2011-12 | | FY 2012-13 | |
|---|---|---|---|---|
| **Beginning Unreserved Fund Balance** | **($4,355,915)** | | **($20,456,577)** | |
| **Recommended Budget** | | | | |
| Requirements | **$31,750,487** | | **$31,750,487** | |
| Receipts | **$20,149,825** | | **$20,149,825** | |
| Positions | **0.00** | | **0.00** | |
| **Legislative Changes** | | | | |
| **Requirements:** | | | | |
| **Transfer to General Fund** | $0 | R | $0 | R |
| Diverts $4.5 million in Deed Stamp tax revenue to the General Fund for general availability. | $4,500,000 | NR | $0 | NR |
| | 0.00 | | 0.00 | |
| **Subtotal Legislative Changes** | **$0** | R | **$0** | R |
| | **$4,500,000** | NR | **$0** | NR |
| | 0.00 | | 0.00 | |
| **Receipts:** | | | | |
| **Transfer to General Fund** | $0 | R | $0 | R |
| | $0 | NR | $0 | NR |
| **Subtotal Legislative Changes** | **$0** | R | **$0** | R |
| | **$0** | NR | **$0** | NR |

Subcommittee on Natural and Economic Resources

| | FY 2011-12 | FY 2012-13 |
|---|---|---|
| **Revised Total Requirements** | $36,250,487 | $31,750,487 |
| **Revised Total Receipts** | $20,149,825 | $20,149,825 |
| **Change in Fund Balance** | ($16,100,662) | ($11,600,662) |
| **Total Positions** | 0.00 | 0.00 |
| **Unappropriated Balance Remaining** | ($20,456,577) | ($32,057,239) |

# Solid Waste Management Trust Fund

Budget Code: 64303

| | FY 2011-12 | | FY 2012-13 | |
|---|---|---|---|---|
| **Beginning Unreserved Fund Balance** | **$6,399,207** | | **$4,111,370** | |
| **Recommended Budget** | | | | |
| Requirements | **$3,836,277** | | **$3,836,277** | |
| Receipts | **$3,814,277** | | **$3,814,277** | |
| Positions | **1.00** | | **1.00** | |
| **Legislative Changes** | | | | |
| **Requirements:** | | | | |
| **White Goods Transfer to General Fund** | $0 | R | $0 | R |
| Diverts White Goods tax revenue to the General Fund for general availability. | $1,131,342 | NR | $0 | NR |
| | 0.00 | | 0.00 | |
| **Scrap Tire Transfer to General Fund** | $0 | R | $0 | R |
| Diverts Scrap Tire tax revenue to the General Fund for general availability. | $1,134,495 | NR | $0 | NR |
| | 0.00 | | 0.00 | |
| **Subtotal Legislative Changes** | **$0** | R | **$0** | R |
| | **$2,265,837** | NR | **$0** | NR |
| | 0.00 | | 0.00 | |
| **Receipts:** | | | | |
| **White Goods Transfer to General Fund** | $0 | R | $0 | R |
| | $0 | NR | $0 | NR |
| **Scrap Tire Transfer to General Fund** | $0 | R | $0 | R |
| | $0 | NR | $0 | NR |
| **Subtotal Legislative Changes** | **$0** | R | **$0** | R |
| | **$0** | NR | **$0** | NR |

Subcommittee on Natural and Economic Resources

| | FY 2011-12 | FY 2012-13 |
|---|---|---|
| **Revised Total Requirements** | $6,102,114 | $3,836,277 |
| **Revised Total Receipts** | $3,814,277 | $3,814,277 |
| **Change in Fund Balance** | ($2,287,837) | ($22,000) |
| **Total Positions** | 1.00 | 1.00 |
| **Unappropriated Balance Remaining** | $4,111,370 | $4,089,370 |

# Wildlife Receipts - Non-Interest Earning

Budget Code: 24353

| | FY 2011-12 | | FY 2012-13 | |
|---|---|---|---|---|
| **Beginning Unreserved Fund Balance** | **$5,375,000** | | **$26,875,000** | |
| **Recommended Budget** | | | | |
| Requirements | **$21,500,000** | | **$21,500,000** | |
| Receipts | **$21,500,000** | | **$21,500,000** | |
| Positions | **0.00** | | **0.00** | |
| **Legislative Changes** | | | | |
| **Requirements:** | | | | |
| **Sales Tax Transfer** | ($21,500,000) | R | ($21,500,000) | R |
| Eliminates the sales tax transfer to the Wildlife Resources Commission. The Commission will now be funded through the General Fund. | $0 | NR | $0 | NR |
| | 0.00 | | 0.00 | |
| **Subtotal Legislative Changes** | **($21,500,000)** | R | **($21,500,000)** | R |
| | **$0** | NR | **$0** | NR |
| | 0.00 | | 0.00 | |
| **Receipts:** | | | | |
| **Sales Tax Transfer** | $0 | R | $0 | R |
| Eliminates the sales tax transfer to the Wildlife Resources Commission. The Commission will now be funded through the General Fund. | $0 | NR | $0 | NR |
| **Subtotal Legislative Changes** | **$0** | R | **$0** | R |
| | **$0** | NR | **$0** | NR |

| | FY 2011-12 | FY 2012-13 |
|---|---|---|
| **Revised Total Requirements** | **$0** | **$0** |
| **Revised Total Receipts** | **$21,500,000** | **$21,500,000** |
| **Change in Fund Balance** | **$21,500,000** | **$21,500,000** |
| **Total Positions** | **0.00** | **0.00** |
| **Unappropriated Balance Remaining** | **$26,875,000** | **$48,375,000** |

# JUSTICE
# &
# PUBLIC SAFETY
# Section I

# Judicial

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$477,189,575** | | **$477,189,575** | |
| **Legislative Changes** | | | | |
| **1 Eliminate VRIF Positions**<br>Eliminates 194.5 full-time equivalent positions within the Judicial Branch. These positions became vacant effective March 1, 2011, through a voluntary reduction in force implemented by the Administrative Office of the Courts. | ($12,935,761)<br>-194.50 | R | ($12,935,761)<br>-194.50 | R |
| **2 Freeze Statutory Pay Plans**<br>Eliminates a recurring reserve in the continuation budget for statutory pay plans for Deputy Clerks and Magistrates. These pay increases will be frozen for the 2011-13 fiscal biennium. | ($6,390,013) | R | ($6,390,013) | R |
| **3 Reduce Continuation Budget Increases**<br>Reduces restored funds in the Administrative Office of the Courts' continuation budget. The AOC budget included a non-recurring reduction in FY 2010-11; the AOC eliminated positions to comply with this reduction, so the restorations to Personal Services line items can be eliminated as the positions they were associated with no longer exist. | ($5,282,000) | R | ($5,282,000) | R |
| **4 Freeze Field Vacancies for Two Years**<br>Implements a hiring freeze on 35 vacant positions for the 2011-13 fiscal biennium. The freeze includes the following positions:<br>18 Deputy Clerks<br>3 Assistant District Attorneys<br>7 Superior Court Judicial Assistants<br>4 District Court Judicial Assistants<br>3 Court Reporters | ($1,681,000) | NR | ($1,681,000) | NR |
| **5 Discretionary Position Reduction**<br>Allows the Administrative Office of the Courts to identify positions, either vacant or filled, to eliminate to achieve required savings level of $256,122. The agency will report on the positions eliminated to the Chairs of the Justice and Public Safety Appropriations Subcommittee. | ($256,122) | R | ($256,122) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **6 Eliminate Dispute Resolution**<br>Eliminates all State funding for the non-profit mediation centers. The State appropriation accounts for 19% of the combined budgets for mediation centers on average. Because these centers are not-for-profit, non-State entities, they are able to charge a fee for any service provided to cover their costs. | ($1,139,513) | R | ($1,139,513) | R |
| **7 Eliminate Juvenile Court Coordinator Pilot Program**<br>Eliminates two Juvenile Court Coordinator positions associated with a court improvement pilot initiative that is ending. | ($108,678)<br>-2.00 | R | ($108,678)<br>-2.00 | R |
| **8 Reduce Access to Civil Justice Pass-Through**<br>Reduces the direct appropriation to the State Bar for Access to Civil Justice by $112,500, leaving $600,000 in the pass-through. | ($112,500) | R | ($112,500) | R |
| **Office-District Attorney** | | | | |
| **9 Reduce District Attorney Support Staff**<br>Reduces the number of support staff in District Attorneys' offices. There are currently 599 Assistant District Attorney positions and 550 support staff positions - a ratio of 1:1.08. This reduction establishes a ratio of 1:1.5. | ($5,253,111)<br>-151.00 | R | ($5,253,111)<br>-151.00 | R |
| **Technology Services** | | | | |
| **10 Reduce AOC Technology Services**<br>Reduces the budget for technology within the Judicial Branch. It is the intent of the General Assembly that new application development projects should be funded on a case-by-case basis by the legislature with clear timetables and budget projections. | ($4,918,000) | R | ($4,918,000) | R |
| **Trial Courts** | | | | |
| **11 Eliminate Vacant Magistrate Positions**<br>Eliminates vacant magistrate positions based on workload. The Administrative Office of the Courts' workload formula for magistrates indicates that there are over 60 more magistrates than necessary for the workload. Eliminates 19 positions currently vacant and an additional 42 vacancies occurring on January 1, 2013. | ($826,272)<br>-19.00 | R | ($1,739,520)<br>-61.00 | R |
| **12 Eliminate Drug Treatment Court**<br>Eliminates all State funding for the Drug Treatment Court program. | ($2,043,523)<br>-33.00 | R | ($2,043,523)<br>-33.00 | R |
| **13 Continuation Review of Family Court**<br>Eliminates recurring funding for the Family Court Program pending the outcome of a Continuation Review. | ($2,865,693)<br>$2,865,693 | R<br>NR | ($2,865,693)<br>-47.00 | R |

| Senate Subcommittee on Justice and Public Safety | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **Total Legislative Changes** | **($42,131,186)** | **R** | **($43,044,434)** | **R** |
| | **$1,184,693** | **NR** | **($1,681,000)** | **NR** |
| **Total Position Changes** | -399.50 | | -488.50 | |
| **Revised Budget** | **$436,243,082** | | **$432,464,141** | |

# Judicial - Indigent Defense

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$122,770,246** | | **$122,770,246** | |
| **Legislative Changes** | | | | |
| **14 Reduce Private Assigned Counsel Funds**<br>Reduces funding to the Private Assigned Counsel fund. The Office of Indigent Defense Services is directed to use its statutory authorization to set reimbursement rates based on projected utilization to minimize potential shortfalls in the fund, including setting differential rates for District and Superior Court work and setting fixed costs for high-volume, standard case types. The Office is also authorized to create regional public defender offices, which is expected to contain costs further. | ($8,913,738) | R | ($9,486,150) | R |
| **15 Eliminate Sentencing Services**<br>Eliminates all State funding for the Sentencing Services Program. Pre-sentencing assessment and referral services may be provided by probation officers and by the Treatment Accountability for Safer Communities (TASC) program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services at the request of the court. | ($2,123,631)<br>-11.40 | R | ($2,123,631)<br>-11.40 | R |
| **Total Legislative Changes** | **($11,037,369)** | R | **($11,609,781)** | R |
| **Total Position Changes** | -11.40 | | -11.40 | |
| **Revised Budget** | **$111,732,877** | | **$111,160,465** | |

# Justice

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$89,670,944** | | **$89,670,944** | |

**Legislative Changes**

**A. Department-wide**

**16 Vacant Position Reduction** ($2,527,438) R ($2,527,438) R

Eliminates vacant positions throughout the Department.

-40.31 -40.31

**17 Miscellaneous Operating Reductions** ($1,325,000) R ($1,325,000) R

Makes recurring operating reductions that were taken on a non-recurring basis in FY 2010-11.

**B. Administration**

**18 Executive Staff** ($551,993) R ($551,993) R

Eliminates the following executive staff positions:

-5.00 -5.00

| Position Number | Title | Total Position Cost |
|---|---|---|
| 60010114 | Chief Deputy II | $136,803 |
| 60010136 | Chief Deputy II | $138,294 |
| 60010135 | Administrative Secretary | $ 55,436 |
| 60010111 | Special Cnsl for Dev. | $117,057 |
| 60010141 | Special Counsel | $104,403 |

**19 Information Technology Administration** ($250,347) R ($250,347) R

Reorganizes the information technology section administration by eliminating two IT director positions (60011101 and 60011154).

-2.00 -2.00

**20 Administrative Efficiencies** ($654,404) R ($654,404) R

Reduces administrative positions based on the following ratios:

-10.00 -10.00

| | |
|---|---|
| Human Resources: | 1 position for every 150 full-time equivalent (FTE) employees: |
| Fiscal/Budgeting: | 1 position for every $8 million of total budget requirements. |
| Purchasing: | 1 position for every $11 million of goods or services purchased. |

**21 Finance Staff Receipts** ($100,681) R ($100,681) R

Shifts two finance staff positions to receipt support.

-2.00 -2.00

| Senate Subcommittee on Justice and Public Safety | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **22 Postage Budget**<br>Reduces the postage budget for the Department. | ($93,000) | R | ($93,000) | R |
| **C. Legal Services** | | | | |
| **23 Consumer Protection Receipts**<br>Shifts nine consumer protection staff to receipt support. | ($482,105)<br>-9.00 | R | ($482,105)<br>-9.00 | R |
| **24 NC LEAF**<br>Eliminates the pass-through appropriation for the NC Legal Education Assistance Foundation. | ($356,250) | R | ($356,250) | R |
| **25 Legal Services Division**<br>Pending passage of H.B. 306, transfers the following positions to the General Assembly: | ($259,019)<br>-3.00 | R | ($259,019)<br>-3.00 | R |

| Position Number | Title | Total Position Cost |
|---|---|---|
| 60010185 | Asst. Attorney General | $115,875 |
| 60010191 | Asst. Attorney General | $ 94,904 |
| 60010189 | Administrative Assistant | $ 48,240 |

| | | | | |
|---|---|---|---|---|
| **D. State Bureau of Investigation** | | | | |
| **26 Criminal Background Check Receipts**<br>Shifts eight Criminal Background staff to receipt support. | ($396,189)<br>-8.00 | R | ($396,189)<br>-8.00 | |
| **27 SBI Personal Services**<br>Reduces the personal services line in the SBI budget to more accurately reflect actual expenditures. | ($141,797)<br>($160,125) | R<br>NR | ($141,797) | R |
| **28 SBI Workload Reduction**<br>Reduces State Bureau of Investigation staff based on actual workloads. | ($1,704,338)<br>-28.00 | R | ($1,704,338)<br>-28.00 | R |
| **29 Sale of Aircraft**<br>Requires the SBI to sell one of its three aircraft in accordance with the Program Evaluation Division's recommendation in Report #2010-04, and reduces the SBI's operating budget to eliminate funding for insurance and maintenance costs for that aircraft. | ($16,835) | R | ($16,835) | R |
| **30 SBI Transfer**<br>Transfers the State Bureau of Investigation and the NC State Crime Lab to the new NC Department of Public Safety, effective January 1, 2012. | ($24,442,880)<br>-646.00 | R | ($49,045,885)<br>-646.00 | R |
| **E. Training and Standards** | | | | |
| **31 Academy Bookstore Receipts**<br>Shifts three bookstore staff positions to receipt support. | ($137,487)<br>-3.00 | R | ($137,487)<br>-3.00 | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **32 Academy Staff Efficiencies** | ($390,449) | R | ($390,449) | R |
| Consolidates administration of the two training academies and increases receipts for the use of facilities by non-law enforcement agencies. The following positions are eliminated: | -5.00 | | -5.00 | |

| Position Number | Title | FTE | Total Position Cost |
|---|---|---|---|
| 60011295 | CJ Training Coord I | 1.0 | $62,010 |
| 60011353 | CJ Training Coord I | 0.5 | $46,471 |
| 60011397 | CJ Training Coord I | 1.0 | $71,173 |
| 60011369 | Housekeeping Team Ldr | 1.0 | $37,204 |

The following positions are shifted to receipt support:

| Position Number | Title | FTE | Total Position Cost |
|---|---|---|---|
| 60011372 | Housekeeper | 0.5 | $35,459 |
| 60011377 | Security Guard | 1.0 | $38,132 |

| | | | | |
|---|---|---|---|---|
| **33 Training Academies Transfer** | ($3,350,310) | R | ($6,700,619) | R |
| Transfers the two Justice Training Academies to the new NC Department of Public Safety, effective January 1, 2012. | -127.50 | | -127.50 | |
| **Total Legislative Changes** | **($37,180,522)** | R | **($65,133,836)** | R |
| | **($160,125)** | NR | | |
| **Total Position Changes** | -888.81 | | -888.81 | |
| **Revised Budget** | **$52,330,297** | | **$24,537,108** | |

# Juvenile Justice & Delinquency Prevention

GENERAL FUND

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **Recommended Continuation Budget** | **$151,295,187** | | **$151,295,187** | |

**Legislative Changes**

**A. Department-wide**

**34 Longevity** ($138,777) R ($138,777) R

Makes a reduction to the budgeted amount for longevity to more accurately reflect actual expenditures.

**35 Equipment** ($197,563) R ($197,563) R

Makes a reduction to the budgeted amount for equipment to more accurately reflect actual expenditures.

**36 Computer Services** ($472,649) R ($472,649) R

Reduces the budget for computer services throughout the Department.

**37 Art, Artifacts, and Literature** ($100,000) R ($100,000) R

Reduces the budget for art, artifacts, and literature to more accurately reflect actual expenditures.

**38 Utilities** ($114,701) R ($114,701) R

Reduces the budget for utilities to more accurately reflect actual expenditures.

**39 Repair Services** ($154,671) R ($154,671) R

Reduces the budget for repair services to more accurately reflect actual expenditures.

**40 Facility and Hardware Supplies** ($25,367) R ($25,367) R

Reduces the budget for facility and hardware supplies.

**41 Vacant Positions** ($222,448) R ($222,448) R

Eliminates the following vacant positions:

-3.00 -3.00

| Position Number | Title | Total Position Cost |
|---|---|---|
| 60001018 | Business Services Coord. | $ 52,194 |
| 60089025 | Administrative Officer I | $ 65,489 |
| 60000894 | Quality Assurance Specialist | $104,765 |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **B. Administration** | | | | |
| **42 Administrative Efficiencies** | ($1,281,235) | R | ($1,281,235) | R |
| Reduces administrative positions based on the following ratios: | -20.00 | | -20.00 | |
| Human Resources: 1 position for every 150 full-time equivalent (FTE) employees. | | | | |
| Fiscal/Budgeting: 1 position for every $8 million of total budget requirements. | | | | |
| Purchasing: 1 position for every $11 million of goods or services purchased. | | | | |
| **43 Consolidation Reduction** | ($591,228) | R | ($1,182,455) | R |
| Eliminates executive level positions as a result of consolidation of the Departments of Juvenile Justice and Delinquency Prevention, Crime Control and Public Safety, and Correction. Position eliminations are effective December 31, 2011. The following positions are eliminated in DJJDP: | -11.00 | | -11.00 | |

| Position Number | Title | Total Position Cost |
|---|---|---|
| 60000889 | Secretary | $146,310 |
| 60000900 | Chief Operating Officer | $141,425 |
| 60000890 | Deputy Secretary | $131,110 |
| 60000968 | Controller | $117,886 |
| 60000964 | Dir. of Budget Operations | $ 96,241 |
| 60000893 | Communications Director | $ 79,945 |
| 60000896 | Human Resources Director | $125,296 |
| 60000916 | Technical Services Manager | $125,651 |
| 60001485 | Legislative Liaison | $ 97,686 |
| 60001049 | Asst. to Human Resources Dir. | $ 50,325 |
| 60000892 | Executive Assistant | $ 70,582 |

| | | | | |
|---|---|---|---|---|
| **44 Staff Development** | ($300,338) | R | ($300,338) | R |
| Eliminates 5 staff development positions. The Department can work with the Training Academies in the Department of Justice or the NC Community College System to provide this service. | -5.00 | | -5.00 | |
| **45 IT Help Desk** | ($172,390) | R | ($172,390) | R |
| Eliminates two IT help desk positions. These positions are a duplication of services provided through the State's Office of Information Technology Services. | -1.60 | | -1.60 | |
| **C. Detention Center Services** | | | | |
| **46 Detention Centers** | ($1,143,137) | R | ($1,143,137) | R |
| Eliminates four Staff Psychologists at Wake, Richmond, New Hanover, and Cumberland Detention Centers. Eliminates 14 Youth Counselor Technicians from Perquimans, Pitt, Alexander, Cumberland, Richmond, Gaston, and Wake Detention Centers. Eliminates three Housing Unit Supervisors from Pitt, Alexander, and Cumberland. | -21.00 | | -21.00 | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **47 Detention Center Receipts**<br>Eliminates the continuation budget increase for Detention Center receipts. G.S. 143B-530 requires that any county placing a juvenile in a detention facility in another county shall pay fifty percent of the total cost of caring for the juvenile to the Department. | ($2,000,000) | R | ($2,000,000) | R |
| **D. Youth Development Centers** | | | | |
| **48 Swannanoa Youth Development Center**<br>Eliminates funding and positions at Swannanoa Youth Development Center. The Department closed Swannanoa effective March 1, 2011. | ($5,000,703)<br>-87.00 | R | ($5,000,703)<br>-87.00 | R |
| **49 DHHS Security Contract**<br>Eliminates funding for a contract with the Department of Health and Human Services (DHHS) for security services at Swannanoa Youth Development Center. | ($137,989) | R | ($137,989) | R |
| **50 Samarkand Youth Development Center**<br>Eliminates funding and positions at the Samarkand Youth Development Center (YDC). Bed capacity at the remaining seven YDCs is sufficient to house the juveniles currently committed to Samarkand. The Department is encouraged to increase the use of community-based alternatives to commitment to continue to reduce the need for YDCs across the State. | ($3,164,764)<br>-57.00 | R | ($3,164,764)<br>-57.00 | R |
| **51 Repair and Renovation Funds**<br>Provides repair and renovation funds for Stonewall Jackson Youth Development Center ($2,330,900) and C.A. Dillon Youth Development Center ($1,531,000). Funds are to be used on repairs or renovations that increase the operational capacity of these youth development centers in order to provide more bed space at a lower cost. | $3,861,900 | NR | | |
| **E. Education and Treatment Services** | | | | |
| **52 School Superintendent**<br>Eliminates the Superintendent position in DJJDP (position number 60000978). Superintendent responsibilities can be handled by the Chief Deputy Secretary for Juvenile Justice or the head of Education and Treatment Services. | ($113,637)<br>-1.00 | R | ($113,637)<br>-1.00 | R |
| **53 Education Directors**<br>Eliminates two education directors (position numbers 60001052, 60001058). The Director for Exceptional Children remains, along with one education director that is 50% receipt supported and one education director that is 100% receipt supported. In addition, the Department of Public Instruction is available to provide consultation and assistance to all public education entities in the State. | ($155,550)<br>-2.00 | R | ($155,550)<br>-2.00 | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **54 Youth Development Center Principals**<br>Reduces the number of youth development center principals and assistant principals by four. Two vacant principal positions are eliminated (position numbers 60001614 and 60001205). The Department has discretion to determine which two remaining principal positions to eliminate. | ($336,275)<br>-4.00 | R | ($336,275)<br>-4.00 | R |
| **55 Camp Woodson**<br>Eliminates funding for Camp Woodson. This therapeutic wilderness program was closed by the Department on March 1, 2011. | ($973,570)<br>-19.00 | R | ($973,570)<br>-19.00 | R |
| **F. Community Programs** | | | | |
| **56 Juvenile Assessment Center**<br>Eliminates the pass-through appropriation to the Juvenile Assessment Center in Cumberland County. This program may continue to receive funding through Juvenile Crime Prevention Council (JCPC) grants. | ($124,075) | R | ($124,075) | R |
| **57 Project Challenge**<br>Eliminates the direct pass-through appropriation for Project Challenge. Project Challenge receives funding through the Juvenile Crime Prevention Council (JCPC) allotment. | ($121,600) | R | ($121,600) | R |
| **G. Court Services** | | | | |
| **58 District Consolidation**<br>Reduces the number of districts for the Department from 39 to 30. Eliminates funding for eight chief court counselors (two districts currently share a chief), leaving one chief court counselor for each district. | ($563,240)<br>-8.00 | R | ($563,240)<br>-8.00 | R |
| **59 Court Counselor Allotment**<br>Reduces the Court Counselor workload to one court counselor for every 32 complaints. This reduction is based on 2005 workload data. The Department is developing a new allotment formula that takes into account workloads and travel requirements. This new formula will be used to distribute court counselors among the 30 districts. | ($1,957,488)<br>-39.00 | R | ($1,957,488)<br>-39.00 | R |
| **Total Legislative Changes** | **($19,563,395)**<br>**$3,861,900** | R<br>NR | **($20,154,622)** | R |
| **Total Position Changes** | -278.60 | | -278.60 | |
| **Revised Budget** | **$135,593,692** | | **$131,140,565** | |

# Correction

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$1,421,644,768** | | **$1,418,867,332** | |

**Legislative Changes**

**A. Department-wide**

**60 Administrative Efficiencies** ($2,983,860) R ($2,983,860) R

Reduces administrative positions based on the following ratios: -60.00 -60.00

| | |
|---|---|
| Human Resources: | 1 position for every 150 full-time equivalent (FTE) employees. |
| Fiscal/Budgeting: | 1 position for every $8 million of total budget requirements. |
| Purchasing: | 1 position for every $11 million of goods or services purchased. |

**61 Consolidation Reduction** ($707,238) R ($1,414,476) R

Eliminates executive level positions as a result of consolidation of the Departments of Juvenile Justice and Delinquency Prevention, Crime Control and Public Safety, and Correction. Position eliminations are effective December 31, 2011. The following positions are eliminated in DOC: -12.00 -12.00

| Position Number | Title | Total Position Cost |
|---|---|---|
| 60056032 | Secretary | $146,309 |
| 60056034 | Administrative Assistant III | $ 68,516 |
| 60058360 | Deputy Secretary/Commissioner IV | $141,424 |
| 60056033 | Chief Operating Officer | $151,109 |
| 60056056 | Administrative Secretary III | $ 51,797 |
| 60056384 | Accounting Director | $136,885 |
| 60056393 | Accounting Manager | $117,836 |
| 60056146 | Information Technology Executive | $156,996 |
| 60056264 | Agency/University HR Director III | $136,464 |
| 60056255 | DOC Special Assistant | $ 91,556 |
| 60056040 | Director of Public Affairs | $ 87,770 |
| 60056051 | Deputy Secretary/Commissioner II | $127,815 |

**62 Reduce Temporary and Contractual Positions** ($1,650,000) R ($1,650,000) R

Reduces the use of temporary and contractual staff department wide.

**63 Reduce Longevity Pay** ($2,009,625) R ($2,009,625) R

Reduces the longevity pay line item to more accurately reflect actual expenditures.

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **64 Reduce the Motor Vehicle Continuation Budget**<br>Reduces the Motor Vehicle Continuation Budget. | ($950,000)<br>($1,500,000) | R<br>NR | ($950,000) | R |
| **65 Reduce Clothing Budget**<br>Reduces the clothing budget for inmate clothing and officer uniforms. | ($1,000,000) | R | ($1,000,000) | R |
| **66 Reduce PC Equipment**<br>Reduces the budget for personal computers replacement schedule. | ($300,000) | R | ($300,000) | R |
| **67 Reduce Equipment Budget**<br>Reduces the equipment budget. | ($1,600,000) | R | ($1,600,000) | R |
| **68 Reduce Data Processing Equipment**<br>Reduces the funding for data processing equipment. | ($300,000) | R | ($300,000) | R |
| **69 Reduce Supplies Continuation Budget**<br>Reduces the Supplies Continuation Budget. | ($1,422,052) | R | ($1,422,052) | R |
| **70 Reduce Salary Reserve**<br>Reduces funds budgeted for salaries in excess of actual salaries of employees. | ($1,000,000) | R | ($1,000,000) | R |
| **71 Miscellaneous Contractual Services**<br>Reduces the Miscellaneous Contractual Services Continuation Budget. | ($750,000) | R | ($750,000) | R |
| **72 Reduce Travel Budget**<br>Reduces the Department's travel budget. | ($500,000) | R | ($500,000) | R |
| **73 Reduce Utility Budget**<br>Reduces the Department's utility budget. | ($2,000,000) | R | ($2,000,000) | R |
| **74 Reduce the Fringe Benefit Continuation Budget**<br>Reduces the continuation budget increases for various fringe benefits accounts across the Department. | ($5,429,410) | R | ($5,429,410) | R |
| **75 Eliminate Domestic Violence Rehabilitation Reserve**<br>Eliminates the Domestic Violence Rehabilitation Reserve, which was funded in 2008. The Department was able to establish the domestic violence programs without ever making use of the appropriation. The domestic violence programs will continue to serve inmates at the same level. | ($100,000) | R | ($100,000) | R |
| **76 Eliminate Parole Commission Support Position**<br>Eliminates a Parole Commission administrative support position (position number 60076645). This reduction will have minimal impact on the Commission. | ($87,369)<br>-1.00 | R | ($87,369)<br>-1.00 | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **77 Eliminates Vacant Positions**<br>Eliminates vacant positions throughout the Department. | ($14,132,696)<br>-255.00 | R | ($14,132,696)<br>-255.00 | R |
| **78 Eliminate Restoration Budget Reserve**<br>Eliminates a continuation budget increase that restores a non-recurring reduction to the Department's budget for a lower than expected inmate population. | ($10,042,999)<br>($11,957,001) | R<br>NR | ($10,042,999)<br>($11,957,001) | R<br>NR |
| **B. Department Management** | | | | |
| **79 Legal, License, and Permit**<br>Reduces the Legal, License, and Permit Continuation Budget. | ($30,000) | R | ($30,000) | R |
| **80 Shift Accountants to Receipts**<br>Funds accounting positions that support Correction Enterprise with receipts, eliminates the reimbursement from Correction Enterprise, and transfers the positions to the Correction Enterprise fund. | ($110,829)<br>-8.00 | R | ($110,829)<br>-8.00 | R |
| **C. Prisons** | | | | |
| **81 Eliminate Maintenance Positions at Central Prison**<br>Eliminates five maintenance positions that manage the boiler operation at Central Prison. This reduction is possible due to facility improvements related to the Central Prison Hospital addition. | ($221,696)<br>-5.00 | R | ($221,696)<br>-5.00 | R |
| **82 Reduce Inmate Costs**<br>Reduces inmate costs by enabling inmates with shorter sentences to be rewarded for positive conduct and good behavior. These inmates would otherwise not be able to benefit from sentence reduction credits for program completion. No inmate would serve less than their minimum sentence. | ($2,500,000) | R | ($2,500,000) | R |
| **83 Establish Two Release Dates Per Month**<br>Establishes two release dates per month for inmates leaving prison. Inmates would still be required to serve their mandatory sentence, but would enable the Department of Correction to reduce the costs associated with transportation and processing inmates by improved coordination. | ($571,000) | R | ($571,000) | R |
| **84 Shift Inmate Medical Costs to Medicaid**<br>Shifts medical costs for Medicaid eligible inmates. The Department of Correction and the Department of Health and Human Services have developed a Memorandum of Understanding related to establishing the Medicaid eligibility of qualified inmates who receive inpatient services at a hospital and are away from the prison housing unit for 24 hours or longer. The Department of Correction will pay the State share of Medicaid. | ($3,000,000) | R | ($3,000,000) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **85 Transfer Inmate Welfare Funds**<br>Transfers a one-time payment of $1 million from the Inmate Welfare Fund to the General Fund. | ($1,000,000) | NR | | |
| **86 Transfer Correction Enterprise Funds**<br>Transfers a one-time payment of $1 million from the Correction Enterprise Fund to the General Fund. | ($1,000,000) | NR | | |
| **87 Correction Enterprise Buy Back**<br>Directs Correction Enterprise to buy back items currently held in the Department's Central Supply Warehouse. This reduction would shift the responsibility for storing excess supplies from the Department to the receipt-supported Correction Enterprise Fund. | ($1,300,000) | R | ($1,300,000) | R |
| **88 Eliminate Community Work Crews**<br>Eliminates Community Work Crews, which were partially restored in 2010 after a complete elimination in 2009. The Department was authorized to charge local government entities a $150 per day fee to offset part of the cost of the eight-person crew plus one Correctional Officer. No local entity has ever paid the Work Crew fee. | ($1,602,094)<br>-39.00 | R | ($1,602,094)<br>-39.00 | R |
| **89 Reduces Chaplains**<br>Reduces Chaplain positions at minimum and medium custody prisons, and maintains at least one Chaplain position at each of the 14 close custody prisons. Each prison facility has a designated staff member responsible for coordinating the involvement and supervision of the Community Volunteer Program. This designee will coordinate the community volunteers, including the religious volunteers, at the minimum and medium custody prisons. | ($1,386,653)<br>-25.00 | R | ($1,386,653)<br>-25.00 | R |
| **90 Eliminate Double Celling at Pamlico CI**<br>Eliminates funding for double celling of inmates at Pamlico Correctional Institution. Implementation of double celling has been cancelled due to county waste water treatment capacity issues. | ($2,395,452)<br>-57.00 | R | ($2,395,452)<br>-57.00 | R |
| **91 Eliminate Correctional Officer Positions**<br>Eliminates 39 Correctional Officer positions associated with the Inmate Litter Crews. This reduction will eliminate positions that are not supported by receipts received from the Department of Transportation. | ($1,560,000)<br>-39.00 | R | ($1,560,000)<br>-39.00 | R |
| **92 Eliminate Funding For Our Children's Place**<br>Eliminates the pass-through appropriation for Our Children's Place, which has yet to become operational. | ($104,025) | R | ($104,025) | R |
| **93 Justice Reinvestment Act: Prison Closures**<br>Closes Bladen Correctional Center, Cabarrus Correctional Center, Durham Correctional Center, and Haywood Correctional Center, effective January 1, 2012. These four minimum custody prisons are closing as part of the Justice Reinvestment Act reforms. Justice Reinvestment Act: Prison Closures | ($5,379,669)<br>-203.00 | R | ($10,759,336)<br>-203.00 | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **94 Justice Reinvestment Act: Diagnostic Center** | ($616,884) | R | ($822,513) | R |
| Eliminates 18 diagnostic center positions at Neuse Correctional Institution and Fountain Correctional Center for Women. These positions are being eliminated as part of the Justice Reinvestment Act reforms. | -18.00 | | -18.00 | |
| **95 Justice Reinvestment Act: Remove Misdemeanants** | ($3,980,368) | R | ($3,980,368) | R |
| Removes misdemeanants with sentences of six months or less from State prisons and houses them in county facilities. Structured Sentencing misdemeanants with sentences longer than six months and Driving While Impaired misdemeanants will remain in the custody of the State. This change is part of the Justice Reinvestment Act reforms. The fee section of the budget proposes increasing the following court costs to offset the costs of housing misdemeanants: the District Criminal Court Facility court cost, which will generate an estimated $19 million; and the Service of Civil Process court cost, which will generate an estimated $3.3 million. In addition, the fee section establishes a new court cost for Improper Equipment dispositions, which will generate an estimated $12 million, and increases the daily jail fee and jail inmate medical co-pay. It is unknown how much the daily jail fee and co-pay increase will generate. These court cost increases are contingent upon passage of legislation increasing the number of days misdemeanants are housed in county jails. | | | | |
| **96 Operating Reserves For New Hospital Facilities** | ($299,859) | R | ($299,859) | |
| Reduces the operating reserves for the new hospitals at Central Prison and NC Correctional Institution for Women Mental Health Facility. | ($1,164,417)<br>-3.00 | NR | -3.00 | |
| **97 Operating Reserves For New Facilities** | $5,874,102 | R | $24,196,611 | R |
| Provides funding to operate and staff new add-on facilities at Swannanoa Correctional Center for Women, Lanesboro Correctional Institution, Maury Correctional Institution, and Tabor Correctional Institution. These facilities will become operational in 2011 and 2012. | $4,125,898<br>280.00 | NR | $803,389<br>340.00 | NR |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **D. DACDP** | | | | |
| **98 Reduce DACDP Administration** | ($405,875) | R | ($405,875) | R |
| Reduces the Division of Alcoholism and Chemical Dependency Programs (DACDP) administration and eliminates six positions. | -6.00 | | -6.00 | |

| Position Number | Title | Total Position Cost |
|---|---|---|
| 60056812 | Dep. Dir. Substance Abuse Serv. | $127,095 |
| 60056814 | Personnel Technician | $ 62,921 |
| 60056770 | SA Counselor Clinician | $ 53,124 |
| 60056816 | Administrative Secretary III | $ 46,780 |
| 60056679 | Accounting Technician | $ 46,736 |
| 60056771 | Processing Assistant | $ 36,594 |
| | Reduces Lease Savings Projection | $26,355 |
| | Reduces Rent/Lease Motor Vehicles | $6,270 |

| | | | | |
|---|---|---|---|---|
| **99 Eliminate DACDP Private Treatment Beds** | ($5,233,354) | R | ($5,233,354) | R |
| Eliminates funding for two private contractual providers of minimum custody level treatment beds. | | | | |
| **E. Community Corrections** | | | | |
| **100 Eliminate Women at Risk** | ($249,375) | R | ($249,375) | R |
| Eliminates all State funding for the Women at Risk program, a substance abuse treatment program for female probationers mainly serving Buncombe and Henderson counties. | | | | |
| **101 Eliminate Summit House** | ($1,052,756) | R | ($1,052,756) | R |
| Eliminates all State funding for Summit House, a residential facility for female probationers at risk of revocation and their children. The program accepts women from any part of the State, but operates in Guilford and Mecklenburg counties. | | | | |
| **102 Eliminate Harriet's House** | ($195,937) | R | ($195,937) | R |
| Eliminates all State funding for Harriet's House, a residential facility serving women upon release from prison and their children. | | | | |
| **103 Broaden Access to Community Treatment** | $4,138,260 | R | $4,138,260 | R |
| Captures funds currently directed through non-profit pass-throughs and contracts into a fund within the Division of Community Corrections to provide community treatment services through fee-for-service contracts with local providers. The Department may use up to $1,683,338 of these funds to contract for services with Summit House, Harriet's House, Women at Risk, the Mary Frances Center, and Evergreen Inc. to allow these programs to complete services to existing populations and to shut down or repurpose their operations. | | | | |

| Senate Subcommittee on Justice and Public Safety | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **104 Interstate Compact Receipts**<br>Funds the non-personnel operating costs of the Interstate Compact with receipts so the Division of Community Corrections can reduce the appropriations used to fund the Compact. This will have no impact on services. The fee is increasing from $150 to $250. | ($125,000) | R | ($125,000) | R |
| **105 Reorganization of Victim Services**<br>Eliminates four victim service positions in the Community Corrections regional offices. The services provided by these positions can be managed within existing resources at the DOC Office of Victim Services. | ($201,873)<br>-4.00 | R | ($201,873)<br>-4.00 | R |
| **106 DCC Reduction in Support Positions**<br>Eliminates 21 positions associated with middle management at the Division of Community Corrections that have become redundant due to district reorganization. | ($880,727)<br>-21.00 | R | ($880,727)<br>-21.00 | R |
| **107 Eliminate DCC Personnel Tech Positions**<br>Eliminates the Personnel Technician position at each of the four Community Corrections division offices. | ($156,215)<br>-4.00 | R | ($156,215)<br>-4.00 | R |
| **108 Outsource Electronic Monitoring**<br>Eliminates positions in the Community Corrections Technology Center overseeing offenders on house arrest with electronic monitoring. The service will be provided through a lower-cost contract with the provider of the monitoring equipment. The contract shall including monitoring services for the Department of Juvenile Justice and Delinquency Prevention to maximize cost savings. | ($475,331)<br>-11.00 | R | ($475,331)<br>-11.00 | R |
| **109 Consolidate DCC Drug Lab Functions**<br>Closes four Community Corrections drug labs, leaving one open. Developments in the products for drug testing have reduced the need for labs. | ($345,043)<br>-8.00 | R | ($345,043)<br>-8.00 | R |
| **Total Legislative Changes** | **($71,332,902)**<br>**($12,495,520)** | **R**<br>**NR** | **($59,302,927)**<br>**($11,153,612)** | **R**<br>**NR** |
| **Total Position Changes** | -499.00 | | -439.00 | |
| **Revised Budget** | **$1,337,816,346** | | **$1,348,410,793** | |

# Crime Control and Public Safety

GENERAL FUND

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **Recommended Continuation Budget** | **$34,175,427** | | **$34,175,427** | |

**Legislative Changes**

**A. Department-wide**

**110 Janitorial Services** ($47,794) R ($47,794) R

Reduces the line item for janitorial services throughout the Department to more accurately reflect actual expenditures.

**111 Waste Removal Services** ($64,411) R ($64,411) R

Reduces the line item for waste removal services throughout the Department to more accurately reflect actual expenditures.

**112 Utilities** ($56,103) R

Reduces the line item for utilities throughout the Department in the second year of the biennium.

**B. Administration**

**113 Criminal Justice Information Network (CJIN)** ($154,423) R ($154,423) R

Eliminates two positions assigned to provide support for CJIN. The following positions are eliminated: -2.00 -2.00

| Position Number | Title | Total Position Cost |
|---|---|---|
| 60084100 | Admin. Assistant II | $ 50,559 |
| 60084125 | CJIN Director | $103,864 |

**114 Consolidation Reduction** ($620,241) R ($1,240,482) R

Eliminates executive level positions as a result of consolidation of the Departments of Juvenile Justice and Delinquency Prevention, Crime Control and Public Safety, and Correction. Position eliminations are effective December 31, 2011. The following positions are eliminated in CCPS: -11.00 -11.00

| Position Number | Title | Total Position Cost |
|---|---|---|
| 60084098 | Secretary | $146,310 |
| 60084129 | Chief Operating Officer | $136,740 |
| 60084134 | Assistant Secretary | $131,349 |
| 60084686 | Deputy Secretary | $133,225 |
| 60084138 | Controller | $122,290 |
| 60084158 | Dir. of Human Resources | $119,565 |
| 60084127 | Director of IT | $131,028 |
| 60084159 | Leg. Affairs Program Mgr. | $ 87,747 |
| 60084130 | Special Assistant to the Sec. | $103,608 |
| 60084132 | Administrative Assistant | $ 68,473 |
| 60084133 | Administrative Assistant | $ 60,147 |

| Senate Subcommittee on Justice and Public Safety | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **C. National Guard** | | | | |
| **115 Reorganization of National Guard Support**<br>Reduces the operating budget for National Guard armories and reduces operating support and staffing costs in the Adjutant General's office. | ($754,787) | R | ($754,787) | R |
| **D. Butner Public Safety** | | | | |
| **116 Butner Public Safety Transfer**<br>Transfers Butner Public Safety to the Town of Butner. Provides a pass-through appropriation of $601,040 to the Town of Butner in FY 2011-12 to assist with the transition. All State funding is eliminated in FY 2012-13. | ($2,615,663)<br>-47.00 | R | ($3,216,703)<br>-47.00 | R |
| **F. State Capitol Police** | | | | |
| **117 Reorganize State Capitol Police**<br>Reorganizes State Capitol Police to focus on security in and around State-owned buildings in Wake County. | ($2,267,303)<br>-40.00 | R | ($2,267,303)<br>-40.00 | R |
| **G. Alcohol Law Enforcement** | | | | |
| **118 ALE Administration**<br>Eliminates five positions in Alcohol Law Enforcement administration. Increases Lottery receipts by $200,000 and makes other reductions to operating costs. | ($1,064,210)<br>-5.00 | R | ($1,064,210)<br>-5.00 | R |
| **H. Division of Emergency Management** | | | | |
| **119 Shift Positions to Receipt Support**<br>Makes 16 positions in the Division of Emergency Management 50% receipt supported. | ($539,974)<br>-8.00 | R | ($539,974)<br>-8.00 | R |
| **I. Governor's Crime Commission** | | | | |
| **120 NC VAN**<br>Eliminates the pass-through appropriation for the NC Victims Assistance Network. This reduction will not impact any direct services to victims provided through State agencies. | ($112,500) | R | ($112,500) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **J. Law Enforcement Support Services** | | | | |
| **121 General Fund Appropriation for LESS** | ($203,257) | R | ($203,257) | R |
| Eliminates the General Fund appropriation for LESS and transfers the evidence and DNA storage warehouse to the NC Crime Lab. The Secretary of the Department shall appoint a designee to coordinate the surplus federal property and first-responder purchasing programs for local law enforcement agencies. The following positions are eliminated: | -5.00 | | -5.00 | |

| Position Number | Title | Total Position Cost |
|---|---|---|
| 60084103 | Director LESS | $95,410 |
| 65011786 | Processing Assistant V | $37,553 |
| 65011787 | Processing Assistant V | $37,553 |
| 65011788 | Processing Assistant V | $37,553 |
| 65011789 | Processing Assistant V | $37,553 |

| | | | | |
|---|---|---|---|---|
| **K. Highway Patrol** | | | | |
| **122 Highway Patrol** | $193,585,434 | R | $189,859,507 | R |
| Appropriates funds for the Highway Patrol in a new fund code in Budget Code 14900. In previous years, the budget for the Highway Patrol has been budgeted directly from the Highway Fund. Beginning in FY 2011-12, funds will be transferred from the Highway Fund to the General Fund for the support of the Highway Patrol. Reductions to the Highway Patrol's budget for FY 2011-13 have been itemized in the Transportation section of the Committee Report. Non-Highway Fund receipts collected by the Highway Patrol will also be budgeted in the new fund code. | 2,368.50 | | 2,368.50 | |
| **L. Department of Public Safety** | | | | |
| **123 Consolidation Reserve** | $818,139 | R | $1,563,124 | R |
| Creates 13 new positions for the new Department of Public Safety. These positions are effective January 1, 2012, except for the secretary position, which is effective October 1, 2011. The following positions are created: | 13.00 | | 13.00 | |

| Title | FTE | Total Position Cost |
|---|---|---|
| Secretary | 1.0 | $146,310 |
| Administrative Assistant | 2.0 | $130,620 |
| Controller | 1.0 | $136,947 |
| Chief Financial Officer | 1.0 | $118,364 |
| Dir. of Human Resources | 1.0 | $136,387 |
| Director of IT | 1.0 | $157,100 |
| Public Information Officer | 1.0 | $ 87,771 |
| Legislative Liaison | 1.0 | $ 97,686 |
| Chief Deputy Secretary | 3.0 | $416,071 |
| Deputy Secretary | 1.0 | $135,870 |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **124 Anticipated Consolidation Savings**<br>Creates a reserve for savings that will be realized as a result of consolidation of the Departments of Juvenile Justice and Delinquency Prevention, Crime Control and Public Safety, and Correction. Savings are anticipated from bulk purchasing, the merger of regional offices in the Law Enforcement Division, and the elimination of duplicative administrative positions identified by the new Department. These savings will be taken from the consolidated budget for the Department of Public Safety, and are not limited to funds currently appropriated to the Department of Crime Control and Public Safety. | | | ($1,417,693) | R |
| **125 SBI Transfer**<br>Transfer the State Bureau of Investigation and the NC State Crime Lab to the new NC Department of Public Safety, effective January 1, 2012. | $24,442,880<br>646.00 | R | $49,045,885<br>646.00 | R |
| **126 Training Academy Transfer**<br>Transfers the two Justice Training Academies to the new NC Department of Public Safety, effective January 1, 2012. | $3,350,310<br>127.50 | R | $6,700,619<br>127.50 | R |
| **Total Legislative Changes** | **$213,752,200** | R | **$236,029,495** | R |
| **Total Position Changes** | 3,037.00 | | 3,037.00 | |
| **Revised Budget** | **$247,927,627** | | **$270,204,922** | |

# Highway Patrol

Budget Code: 24960

| | FY 2011-12 | | FY 2012-13 | |
|---|---|---|---|---|
| **Beginning Unreserved Fund Balance** | **$0** | | **$0** | |
| **Recommended Budget** | | | | |
| Requirements | **$221,219,607** | | **$221,219,607** | |
| Receipts | **$221,190,127** | | **$221,190,127** | |
| Positions | **2,384.50** | | **2,384.50** | |
| **Legislative Changes** | | | | |
| **Requirements:** | | | | |
| **Transfer SHP Funds to General Fund Support**<br>Transfers the budget for the Highway Patrol from Budget Code 24960 to a new fund code in Budget Code 14900 - Crime Control and Public Safety. A corresponding item in the Justice and Public Safety section of the Committee report appropriates funds from the General Fund to the Highway Patrol. | ($221,219,607)<br>$0<br>-2,384.50 | R<br>NR | ($221,219,607)<br>$0<br>-2,384.50 | R<br>NR |
| **Subtotal Legislative Changes** | **($221,219,607)**<br>**$0**<br>-2,384.50 | R<br>NR | **($221,219,607)**<br>**$0**<br>-2,384.50 | R<br>NR |
| **Receipts:** | | | | |
| **Transfer Highway Fund Receipts**<br>Transfers Highway Fund receipts for the Highway Patrol to General Fund availability. The Transportation section of the Committee Report reduces the transfer for the Highway Patrol by $24 million. The total amount transferred to General Fund availability will be $193,585,434 in FY 2011-12 and $189,859,507 in FY 2012-13. | ($217,567,328)<br>$0 | R<br>NR | ($217,567,328)<br>$0 | R<br>NR |
| **Transfer Highway Patrol Receipts**<br>Transfers non-Highway Fund Highway Patrol receipts to a new fund code in Budget Code 14900 - Crime Control and Public Safety. | ($3,622,799)<br>$0 | R<br>NR | ($3,622,799)<br>$0 | R<br>NR |

| | FY 2011-12 | | FY 2012-13 | |
|---|---|---|---|---|
| **Subtotal Legislative Changes** | **($221,190,127)** | R | **($221,190,127)** | R |
| | **$0** | NR | **$0** | NR |
| **Revised Total Requirements** | **$0** | | **$0** | |
| **Revised Total Receipts** | **$0** | | **$0** | |
| **Change in Fund Balance** | **$0** | | **$0** | |
| **Total Positions** | **0.00** | | **0.00** | |
| **Unappropriated Balance Remaining** | **$0** | | **$0** | |

# GENERAL GOVERNMENT
# Section J

# Administration

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$69,700,026** | | **$69,700,026** | |
| **Legislative Changes** | | | | |
| **1111 Office of the Secretary** | | | | |
| **1 Consolidate Environmental Clearing House Function** | ($74,144) | R | ($74,144) | R |
| Eliminates Environmental Clearing House Function and position (Community Development Specialist 660013846) and benefits. | -1.00 | | -1.00 | |
| **1121 Fiscal Management** | | | | |
| **2 Increase Receipt Support for Positions** | ($188,907) | R | ($188,907) | R |
| Increases receipt support for the following positions within Fiscal Management (60014119, 60014102, 60014118, 60014100, 60014112, 60014114, 60014107). | -2.44 | | -2.44 | |
| **1122 Human Resources** | | | | |
| **3 Reduce Operating Costs** | ($116,612) | R | ($116,612) | R |
| Reduces operating accounts within the Human Resources Office. | | | | |
| **1123 Historically Underutilized Businesses** | | | | |
| **4 Program Reduction** | ($81,820) | R | ($81,820) | R |
| Eliminates salary ($65,074) and benefits of one filled position: 60014897. | -1.00 | | -1.00 | |
| **1241 Management Information Systems** | | | | |
| **5 Move Position to Receipts Support** | ($83,455) | R | ($83,455) | R |
| Moves a State Construction Office related position (Business and Technology Applications Analyst 60014137) to receipts support. | -0.85 | | -0.85 | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **1264 Agency for Public Telecommunications** | | | | |
| **6 Transfer Agency for Public Telecommunications to Receipt Support** | ($617,497) | R | ($617,497) | R |
| Requires the APT division to become fully receipt supported. In addition to operating costs, the following positions will be receipt supported: | -7.71 | | -7.71 | |

Executive Director (60014546)
Administrative Assistant II (60014548)
Television Engineer III (60014554)
Television Producer/Director III (60014564)
Television Producer Director II (60014556)
Television Producer Director III (60014555)
Administrative Officer III (60014547)

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **1311 Office of State Personnel** | | | | |
| **7 Eliminate Positions and Reduce Operating Expenses** | ($1,159,596) | R | ($1,159,596) | R |
| Eliminates salaries and benefits of 8.25 vacant and 6 filled positions, and transfers .27 position to receipts; and reduces operating expenses. | -14.52 | | -14.52 | |

Vacant Positions

| | | |
|---|---|---|
| 60013785 | HR Consultant | ($65,000) |
| 60013823 | HR Consultant | ($65,000) |
| 60013793 | HR Consultant | ($65,124) |
| 60013838 | HR Associate | ($46,335) |
| 60013764 | Adm. Support | ($31,889) |
| 60013777 | Division Director | ($91,500) |
| 60013742 | Division Director | ($57,010) - .50 FTE |
| 65012021 | HR Partner | ($40,250) - .75 FTE |
| 60013784 | HR Consultant | ($50,932) |

531211 SPA Reg Salary ($513,040)
531511 Soc Sec ($39,248)
531521 Retirement ($47,910)
531561 Medical ($39,440)
SUBTOTAL Vacant Positions ($639,638)

Filled Positions
60013804 HR Partner Per. Officer ($68,303)
60013744 HR Associate ($47,432)
60013790 HR Manager ($97,353)
60013782 Associate Position ($38,851)
60013798 Partner Position ($70,046)
60013836 Adm. Support Assoc ($26,208)
60013818 HR Manager ($28,300) - .27 FTE

531211 SPA Reg Salary ($376,493)
531511 Soc Sec ($ 28,802)
531521 Retirement ($ 36,780)
531561 Medical ($ 27,100)
SUBTOTAL Filled/Receipted Pos ($469,175)

Operating Expenses
532140 Data Processing ($3,404)
532150 Academic Services ($1,500)
532700 Travel($1,500)
532930 Registration Fees ($5,000)
535830 Member Dues&Subs ($5,000)
536905 OJT Incentive Program ($10,000)
5328XX IT Costs ($24,379)
SUBTOTAL Operating Expenses ($50,783)

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **1311 Office of State Personnel** | | | | |
| **8 Human Resources Development** | | | | |
| Provides funding to implement two components of a comprehensive Human Capital Management (HCM) System, specifically $1.5 million will support a Learning Management System and $1 million is for a Performance Management System. A comprehensive HCM system will provide significant cost savings to internal state operations as a result of the shift from a paper intensive, manual process to an automated process. Funds from the NCFlex FICA Fund will be used to support the program components. The Office of State Controller will transfer funds from the NCFlex FICA Fund to the Office of State Personnel. | | | | |
| **1411 State Construction** | | | | |
| **9 Move Positions to Receipt Support** | ($750,012) | R | ($750,012) | R |
| Uses a portion of the 5% Contingency Reserve for all capital projects under the State Construction Office's control to fund nine positions. The positions are as follows:<br>60014589 Mechanical Engineer<br>60014582 Engineer<br>60014588 Engineer<br>60014614 Engineer<br>60014580 Engineer<br>60014608 Construction Contracts Administrator<br>60014700 Control System Technician<br>60014590 Engineer<br>60089475 Engineer | -9.00 | | -9.00 | |
| **1412 State Property** | | | | |
| **10 Consolidate Position** | ($89,028) | R | ($89,028) | R |
| Consolidates Plan Review position with Code Review. One Management Engineer III position (60014636) and benefits will be eliminated. | -1.00 | | -1.00 | |
| **11 Move Positions to Receipt Support** | ($66,047) | R | ($66,047) | R |
| Increases support from the Land Fund for a portion of four positions:<br>60014639 Real Property Agent II<br>60014635 Real Property Manager<br>60014637 Real Property Agent III<br>60014640 Real Property Agent III | -1.07 | | -1.07 | |
| **1421 Building Reserves** | | | | |
| **12 Fund Building Reserve for the Department of Health and Human Services** | $1,473,580 | R | $3,377,710 | R |
| Funds the Public Health Lab and Office of the Medical Examiner Building that will come online during FY 2011-12. | | | | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **1421 Facilities Management** | | | | |
| **13 Eliminate Positions in Facility Management** | ($544,533) | R | ($544,533) | R |
| Eliminates the following positions in the Facilities Management division. The positions are as follows: | -10.75 | | -10.75 | |
| 60014761 Facilities Maintenance Tech.<br>60014822 Building and Environmental Tech.<br>60014824 Building and Environmental Tech.<br>60014737 Plasterer<br>65011759 Facilities Maintenance Tech.<br>65011754 Building and Environmental Tech.<br>65011755 Building and Environmental Supervisor<br>60014721 Housekeeping Contract Admin.<br>60014784 Housekeeping Procurement Asst.<br>60014708 Painter<br>60014781 Housekeeping Supervisor | | | | |
| **1421 Facility Management** | | | | |
| **14 Consolidate Position** | ($41,232) | R | ($41,232) | R |
| Consolidates a position within Pest Control and Greenhouse Management. One position (Facilities Maintenance Tech 60014763) and benefits will be eliminated. | -1.00 | | -1.00 | |
| **15 Move Position to Receipts** | ($51,644) | R | ($51,644) | R |
| Moves a carpenter position (60014730) to receipts support. | -1.00 | | -1.00 | |
| **1511 Purchase and Contract** | | | | |
| **16 Eliminate Purchase and Contract Positions** | ($480,268) | R | ($480,268) | R |
| Eliminates seven vacant purchase and contract positions. Positions affected are as follows: | -7.00 | | -7.00 | |
| State Procurement Specialist III 60013871<br>Administrative Assistant III 60013904<br>Engineer 60013872<br>Auditor 65011990<br>State Procurement Specialist 65011994<br>Auditor 65011991<br>State Procurement Specialist III 65011993 | | | | |
| **1731 NC Council for Women** | | | | |
| **17 Program Reduction** | ($101,839) | R | ($101,839) | R |
| Eliminates regional office and redistributes oversight responsibilities for local grantees. | -2.00 | | -2.00 | |
| **1732 Displaced Homemakers Program** | | | | |
| **18 Program Reduction** | ($45,742) | R | ($45,742) | R |
| Reduces appropriation for Displaced Homemakers grant funding and administrative costs by 15%. The remaining appropriation for Displaced Homemakers is $259,205 each year. | | | | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **1734 Rape Crisis Program** | | | | |
| **19 Program Reduction**<br>Reduces appropriation for Sexual Assault grant funding and administrative costs by 15%, which provides an appropriation $2,569,031 each year. | ($453,359) | R | ($453,359) | R |
| **1741 Human Relations Commission** | | | | |
| **20 Human Relations Commission Transfer**<br>Authorizes a Type I transfer of the Human Relations Commission from the Department of Administration to the Office of Administrative Hearings. The Commission's Fair Housing responsibilities will continue in the Office of Administrative Hearings. | ($841,613)<br>-10.68 | R | ($841,613)<br>-10.68 | R |
| **1742 Martin Luther King Commission** | | | | |
| **21 Eliminate Grant Funding**<br>Eliminates funding for the grants managed by the Commission. | ($42,465) | R | ($42,465) | R |
| **1761 Youth Advocacy & Involvement Office** | | | | |
| **22 Personnel Adjustment and Operations Reduction**<br>Transfers information and referral functions with the transfer of five positions to the Governor's Office, and eliminates salaries and benefits of two vacant and three filled positions ($300,577) and reduces funds for operations ($25,632).<br><br>Vacant Positions:<br>60014505 Advocacy Specialist II/Assistant Director ($53,879)<br>60014063 Administrative Officer II ($39,078)<br><br>Filled Positions<br>60014064 Executive Director ($64,655)<br>60014502 Processing Asst/Receptionist ($34,441)<br>60014506 Administrative Secretary III ($41,467) | ($326,209)<br>-5.00 | R | ($326,209)<br>-5.00 | R |
| **1771 Veterans Affairs - Administration** | | | | |
| **23 Program Reduction**<br>Reduces the appropriation by realigning the budget to more closely reflect actual expenditures, and leaves $73,545 in the account. Eliminates salary and benefits of one filled position:<br><br>#60014249<br><br>531211 SPA Reg Salary ($48,415)<br>531511 Soc Sec ($ 3,704)<br>531521 Retirement ($ 5,088)<br>531561 Medical ($ 4,930) | ($562,135)<br>-1.00 | R | ($562,135)<br>-1.00 | R |

| Senate Subcommittee on General Government | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **1771 Veterans Affairs - Administration** | | | | |
| **24 Reduces Program Funding**<br>Reduces funding for the Aid to Counties Program. | ($50,000) | R | ($50,000) | R |
| **25 Reduced Scholarship Funding**<br>Reduces the General Fund appropriation for scholarships by 15%, leaving $1,750,589 in the budget each year. | ($308,927) | R | ($308,927) | R |
| **1781 Domestic Violence Program** | | | | |
| **26 Program Reduction**<br>Reduces appropriated share of Domestic Violence grant funding and administrative costs by 15%, which provides $4,132,953 each year. | ($729,345) | R | ($729,345) | R |
| **1810 State Ethics Commission** | | | | |
| **27 Adjust Personnel and Reduce Operating Budget**<br>Eliminates salaries and benefits of a vacant Program Assistant V position at $33,582, and an Attorney II position at $85,241 that is filled. Additionally reduces IT Services. | ($219,519)<br>-2.00 | R | ($219,519)<br>-2.00 | R |

Vacant Position
60088569 Program Assistant V ($33,582)

531211 SPA Reg Salary ($33,582)
531511 Soc Sec ($2,569)
531521 Retirement ($3,529)
531561 Medical ($4,930)
Subtotal Vacant Position ($44,610)

Filled Position
65012031 Attorney II ($85,241)

531211 SPA Reg Salary ($ 85,241)
531511 Soc Sec ($ 6,521)
531521 Retirement ($ 8,959)
531561 Medical ($ 4,930)
Subtotal Vacant Position ($105,651)

Operating Budget Reductions
532140 IT Services ($64,408)
IT 5% Reduction ($ 4,850)
Subtotal Operating Budget ($72,479)

| Senate Subcommittee on General Government | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **2401 E-Commerce Reserve** | | | | |
| **28 Reduce E-Commerce Reserve**<br>Reduces the E-Commerce Reserve by eliminating SL. 2010-31, Sec. 6.19 for the purchase of $1,000,0000 in Smart Cards and $3,483,526 in funds to be used in FY 2012 for E-Procurement system upgrades for a total reduction of $4,483,526. Funds are being transferred to General Fund availability. | | | | |
| **Department-wide** | | | | |
| **29 Eliminate Vacant Positions**<br>Eliminates 15.50 vacant positions and associated benefits at the Department of Administration that have been vacant for more than 100 days. The positions are as follows:<br><br>60013868 Processing Assistant V $45,601<br>60014243 Processing Assistant III $37,150<br>60014547 Administrative Officer III $81,143<br>60014663 Facility Maintenance Tech - Mech Trades $53,376<br>60014117 Accountant $62,792<br>60014798 Facility Maintenance Tech - Mech Trades $47,446<br>65011753 Building & Environmental Technician $43,923<br>65011757 Facility Maintenance Tech-Mech $58,102<br>60014656 Facility Maintenance Tech - Mech Trades $52,130<br>60014756 Facility Maintenance Tech - Mech Trades $46,421<br>60014904 Administrative Officer II $33,390<br>65011992 State Procurement Specialist III $64,010<br>60014074 Community Development Specialist I $32,415<br>60014208 Veterans Service Officer $48,277<br>60014691 Boiler Operation Shift Supervisor I $45,142<br>60013926 Administrative Secretary III $42,630 | ($793,948)<br>-15.50 | R | ($793,948)<br>-15.50 | R |
| **30 Reduce Payments to ITS**<br>Reduce payments to ITS by 5% (532800). | ($58,871) | R | ($58,871) | R |
| **31 Reduce Longevity and Fringe Benefits to Actual**<br>Reduces Longevity and Fringe Benefits to actual. | ($62,022) | R | ($62,022) | R |
| Total Legislative Changes | **($7,467,209)** | R | **($5,563,079)** | R |
| **Total Position Changes** | -94.52 | | -94.52 | |
| **Revised Budget** | **$62,232,817** | | **$64,136,947** | |

# Auditor

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$13,063,656** | | **$13,063,656** | |
| **Legislative Changes** | | | | |
| **1110 - Administration** | | | | |
| **32 Reduce Payments to ITS**<br>Reduces IT payments to reflect a reduction in Community College and UNC Audits (532800). | ($41,992) | R | ($41,992) | R |
| **1210 Field Audit Division** | | | | |
| **33 Reduce Audits at Community Colleges and University of North Carolina**<br>Reduces the number of audits at the North Carolina Community College System (NCCCS) campuses to the statutory minimum of once every five years. The University of North Carolina (UNC) will receive a fiscal control audit every three years. Both UNC and NCCCS campuses will be allowed to use State appropriated funds for private audits as necessary and may contract with the Office of State Auditor for such services. In FY 2011-12, four positions will be eliminated. In FY 2012-13, it is the intention for positions related to UNC and NCCCS audits to become receipt supported. The four positions with associated benefits for elimination are as follows:<br><br>60008883 Adm. Support Spec. ($58,496)<br>60008950 Assistant State Auditor ($96,274)<br>60008961 Assistant State Auditor ($84,096)<br>60008811 Assistant State Auditor ($90,595) | ($329,461)<br>-4.00 | R | ($1,511,000)<br>-17.00 | R |
| **1210 Field Audit Division** | | | | |
| **34 Reduce Performance Audit Division**<br>Reduces half of the Performance Audit Division and transfers funding for up to 5 positions to the Program Evaluation Division at the North Carolina General Assembly. | ($771,994)<br>-9.00 | R | ($771,994)<br>-9.00 | R |
| **1210 Field Office Division** | | | | |
| **35 Lease Reduction**<br>Eliminates leases in Asheville, Charlotte, Fayetteville, Edenton, and Greensboro. | ($62,635) | R | ($62,635) | R |

| Senate Subcommittee on General Government | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| Total Legislative Changes | ($1,206,082) | R | ($2,387,621) | R |
| **Total Position Changes** | -13.00 | | -26.00 | |
| **Revised Budget** | **$11,857,574** | | **$10,676,035** | |

# Cultural Resources

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$72,664,633** | | **$72,664,633** | |
| **Legislative Changes** | | | | |
| **1110 Office of the Secretary** | | | | |
| **36 Personnel Adjustment** | ($194,721) | R | ($194,721) | R |
| Eliminates salaries and benefits of three vacant positions - 2 in the Cultural Heritage Tourism Program and a Personnel Analyst III. | -3.00 | | -3.00 | |
| Vacant Positions<br>60083263 Deputy HR Director ($65,451)<br>65011686 Multi-Cultural and Development Officer ($38,174)<br>65011687 Community Development Director ($48,654) | | | | |
| 531211 SPA Reg Salary ($152,279)<br>531511 Soc Sec ($ 11,650)<br>531521 Retirement ($ 16,005)<br>531561 Medical ($ 14,787) | | | | |
| **1230 Archives & Records** | | | | |
| **37 Personnel Adjustment** | ($59,541) | R | ($59,541) | R |
| Eliminates salary and benefits of a vacant position: 60083352 (Local Records Supervisor). | -1.00 | | -1.00 | |
| 531211 SPA Reg Salary ($46,219)<br>531511 Soc Sec ($3,535)<br>531521 Retirement ($4,858)<br>531561 Medical ($4,929) | | | | |
| **38 Personnel Adjustment** | ($191,368) | R | ($191,368) | R |
| Transfers four positions to Archives and Records Management (ARM) receipts. | -4.00 | | -4.00 | |
| #60083376 - Processing Assistant IV<br>#60083348 - Accounting Technician<br>#60083346 - Archives and Records Professional<br>#60083353 - Archives and Records Professional | | | | |
| 531211 SPA Reg Salary ($145,271)<br>531511 Soc Sec ($11,113)<br>531521 Retirement ($15,268)<br>531561 Medical ($19,716) | | | | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **1241 State Historic Sites** | | | | |
| **39 Transfer Functions and Positions to Receipts** | ($576,258) | R | ($1,152,515) | R |
| Transfers the Transportation Museum to 50% receipts-support in FY 2011-12 and total receipts-support in FY 2012-13. | -8.00 | | -20.50 | |

FY 2011-12
#60083524 Electrician II
#60083520 Museum Specialist
#60083528 Carpenter II
#60083521 Historic interpreter II
#60083530 Historic interpreter II
#60083533 Security Guard
#60083529 & #60083536 Building Environmental Technician

531211 SPA Reg Salary ($228,999)
531511 Soc Sec ($ 17,518)
531521 Retirement ($ 24,068)
531561 Medical ($ 39,432)
532188 Lawn & Garden Service Agreement ($40,262)
532199 Misc Contractual Service ($43,642)
532210 Enrg Ser - Electrical ($62,338)
532220 Enrg Ser - Nat Gas/ Propane ($26,742)
532230 Enrg Ser - Water & Sewer ($8,123)
532331 Repairs - Motor Vehicles($195)
532333 Repairs - Other Equip ($ 8,460)
532390 Repairs- Other ($40,262)
532430 Maint - Equip ($3,292)
532490 Maint Agreement - Other ($385)
532714 Transp - Grnd -In state ($6,825)
532811 Telephone Service ($5,708)
532840 Postage, Freight, Delivery ($3,241)
532911 Property - Insurance ($3,335)
532919 Other Insurance ($235)
532942 Other Emp Educ Expense ($40)
533320 Diesel Fuel ($860)
533900 Other Materials & Supplies ($2,060)
535830 Membership, Dues, & Subscrip ($236)
TOTAL FY 2011-12 ($576,258)

FY 2012-13
#60083531 NC Transportation History Museum Director
#60083522 Facility Maintenance Supervisor III
#60083527 Maintenance Mechanic V
#60083524 Electrician II
#60083523 and #60083525 Historic Sites Manager II
#60083520 Museum Specialist
#60083519 Information & Communication Specialist I
#60083528 Carpenter II
#60083535 Office Assistant IV
#60083526 and #60083534 Historic Interpreter III
#60083521 and #60083530 Historic interpreter II
#60083529 and #60083536 Building Environmental Technician
#60083532 and #60083533 Security Guard

**1241 State Historic Sites**

#60083404 Historic Sites Specialist I

531211 SPA Reg Salary ($662,320)
531511 Soc Sec ($50,667)
531521 Retirement ($69,610)
531561 Medical ($101,045)
532188 Lawn & Garden Service Agreement ($40,262)
532199 Misc Contractual Service ($43,642)
532210 Enrg Ser - Electrical ($62,338)
532220 Enrg Ser - Nat Gas/ Propane ($26,742)
532230 Enrg Ser - Water & Sewer ($8,123)
532331 Repairs - Motor Vehicles ($195)
532333 Repairs - Other Equip ($18,460)
532390 Repairs- Other ($40,262)
532430 Maint - Equip ($3,292)
532490 Maint Agreement - Other ($385)
532714 Transp - Grnd -In state ($6,825)
532811 Telephone Serv ($5,708)
532840 Postage, Freight, Delivery ($3,241)
532911 Property - Insurance ($3,335)
532919 Other Insurance ($235)
532942 Other Emp Educ Expense ($40)
533320 Diesel Fuel ($860)
533900 Other Materials & Supplies ($4,692)
535830 Membership, Dues, & Subscrip ($236)
Total FY 2012-13 ($1,152,515)

**40 Reduction to Operating Budget** ($1,151,073) R ($1,064,635) R

Reduces funding for the Division and 24 State Historic Sites by 15%.

**1242 Tryon Palace**

**41 Transfers Positions to Receipts-support** ($375,075) R ($375,075) R

Transfers the historic site's maintenance program to receipts-support. -10.00 -10.00

#60083572 Painter
#60083563 Carpenter II
#65011462 and 60083559 Maintenance Mechanic IV
#60083568, 60083571, 65011458, 65011459, and 60083567 Building Environmental Technicians
#65011430 Assistant Special Events Coordinator

531211 SPA Reg Salary ($275,715)
531511 Soc Sec ($21,092)
531521 Retirement ($28,978)
531561 Medical ($49,290)

**42 Changes to Historic Site's Funding** ($846,951) R ($3,027,879) R

Reduces remaining General Fund appropriation each fiscal year by transferring 10.5 positions in FY 2011-12 and 34.11 positions in FY 2012-13 with the operating budget to receipts-support. -10.50 -34.11

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **1245 NC Maritime Museum** | | | | |
| **43 Transfer to Receipts-support** | ($59,265) | R | ($59,265) | R |
| Transfers support for the Cape Lookout Studies Program and .75 FTE of position to receipts available from private partnership funds. | -0.75 | | -0.75 | |
| #60083652 Associate Museum Curator | | | | |
| 531211 SPA Reg Salary ($31,834) | | | | |
| 531511 Soc Sec ($2,435) | | | | |
| 531521 Retirement ($3,346) | | | | |
| 531561 Medical ($3,697) | | | | |
| 532199 Misc Contractual Serv ($7,500) | | | | |
| 532333 Repairs- Other Equip ($863) | | | | |
| 532714 Transp - Grnd, In State ($1,500) | | | | |
| 532715 Transp - Grnd, Out State, In U.S. ($225) | | | | |
| 532721 Lodging - In State ($1,275) | | | | |
| 532724 Meals- In State ($1,013) | | | | |
| 532930 Registration Fees ($750) | | | | |
| 533110 General Office Supplies ($375) | | | | |
| 533720 Educ Supplies ($137) | | | | |
| 534539 Other Equip ($4,315) | | | | |
| **1247 Office of State Archaeology** | | | | |
| **44 Program Reductions** | ($171,242) | R | ($171,242) | |
| Suspends the operations of the Archaeology Laboratory and Curation Facility and eliminates salaries and benefits of three filled positions: | -3.00 | | -3.00 | |
| #60083679 Archaeological Technician ($27,544) | | | | |
| #60090495 Archaeologist I ($41,100) | | | | |
| #60083676 Archaeologist II ($54,341) | | | | |
| 531211 SPA Reg Salary ($122,985) | | | | |
| 531461 Longevity ($2,446) | | | | |
| 531511 Soc Sec ($9,595) | | | | |
| 531521 Retirement ($13,182) | | | | |
| 531561 Medical ($14,790) | | | | |
| Operating Budget Reductions | | | | |
| 53XXXX ($8,243) | | | | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **1250 Historic Preservation Office** | | | | |
| **45 Transfer to Receipts-support** | ($71,106) | R | ($71,106) | R |
| Transfers 1.5 positions to federal grant receipts. | -1.50 | | -1.50 | |
| #60083622 Office Assistant III<br>#60083629 Historic Preservation/Restoration Specialist I (.5FTE) | | | | |
| 531211 SPA Reg Salary ($53,921)<br>531511 Soc Sec ($ 4,124)<br>531521 Retirement ($ 5,667)<br>531561 Medical ($ 7,394) | | | | |
| **1320 Museum of Art** | | | | |
| **46 Operating Reductions** | ($471,601) | R | ($471,601) | R |
| Reorganizes and consolidates Museum of Art operations by eliminating salaries and benefits of three vacant positions and 7.25 filled positions; and transfers .25 position to receipts-support. | -10.50 | | -10.50 | |
| Vacant Positions<br>SPA<br>#65011450 Maintenance Mechanic II ($27,544)<br>#60083791 Office Assistant III ($34,319) | | | | |
| EPA<br>#65011451 Art Museum Curator ($50,400)<br>SUBTOTAL Vacant Positions ($112,263) | | | | |
| Filled Positions<br>#60083795 Security Guard ($24,861)<br>#65005187 Security Guard ($24,861)<br>#60083773 Processing Assistant III ($8,119) - (.25 FTE)<br>#60083774 Processing Assistant III ($34,319)<br>#60083772 Program Assistant IV ($29,783)<br>#60083754 Processing Assistant IV ($31,389)<br>#65005027 Art Handler ($32,411)<br>#60083769 Library Technician ($36,378)<br>SUBTOTAL Filled Positions ($222,121) | | | | |
| Receipts-support Position<br>#60090505 Associate Director ($15,412) - (.25 FTE) | | | | |
| 531111 EPA- Reg Salaries- Approp ($ 50,400)<br>531211 SPA- Reg Salaries- Appropr ($299,396)<br>531511 Soc Sec ($26,759)<br>535121 Retirement ($36,764)<br>531561 Medical ($49,300) | | | | |
| Operating Reduction<br>53XXXX ($8,982) | | | | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **1330 NC Arts Council** | | | | |
| **47 Grant Program Reduction**<br>Reduces funding for the Basic Grants Program, which provides $3,292,320 for each year of the 2011-2013 Biennium. | ($581,000) | R | ($581,000) | R |
| **48 Operating Reductions**<br>Eliminates 1.75 vacant positions and 1 filled position by reassigning duties and consolidating grant categories.<br><br>Vacant Positions<br>#60083908 Arts Development Consultant ($40,856)<br>#60083931 Information & Communication Specialist I (.75 FTE) ($27,734)<br><br>Filled Position<br>#60083927 Information & Communication Specialist II ($38,767)<br><br>531211 SPA- Reg Salaries- Appropr ($107,357)<br>531511 Soc Sec ($8,213)<br>535121 Retirement ($11,283)<br>531561 Medical ($13,555) | ($140,408)<br>-2.75 | R | ($140,408)<br>-2.75 | R |
| **49 Grant Program Reduction**<br>Reduces funding for Grassroots Arts Program which provides $2,303,708 for each year of the 2011-2013 Biennium. | ($406,537) | R | ($406,537) | R |
| **50 Eliminate Non-Competitive Funding**<br>Eliminates funding for the Vagabond School of Drama. | ($40,957) | R | ($40,957) | -- |
| **51 Eliminate Non-Competitive Funding**<br>Eliminates funding for the Lost Colony. | ($218,957) | R | ($218,957) | R |
| **52 Eliminate Non-Competitive Funding**<br>Eliminates funding for the Shakespeare Festival. | ($218,957) | R | ($218,957) | R |
| **1340 NC Symphony** | | | | |
| **53 Reduce Grant Funding**<br>Reduces grant funding for statewide concerts by 10%. | ($217,310) | R | ($217,310) | R |

**1410 State Library Services**

| | | | | |
|---|---|---|---|---|
| **54 Personnel Adjustment** | ($499,423) | R | ($499,423) | R |
| Consolidates and eliminates two layers of management in the State Library of NC. Transfers a position to federal receipts. | -9.00 | | -9.00 | |

Filled Positions
#60083815 Office Assistant V ($36,434)
#60083867 Library Technician ($32,029)
#60083850 Library Technician ($32,758)
#60083853 Library Technician ($28,327)
#60083861 Processing Assistant IV ($35,575)

Vacant Positions
60083822 Assistant State Librarian ($58,701)
#60083844 Library Supervisor ($54,692)
#60083904 Office Assistant III ($26,646)

Transferred to Federal Receipts Position
#60083901 Library Professional ($79,963)

531211 SPA Reg Salary ($385,125)
531511 Soc Sec ($ 29,460)
531521 Retirement ($ 40,477)
531561 Medical ($ 44,361)

**1480 Statewide Programs & Grants**

| | | | | |
|---|---|---|---|---|
| **55 Program Reduction** | ($1,980,543) | R | ($1,980,543) | R |
| Reduces State-Aid to local libraries by 13%. | | | | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **1500 Museum of History** | | | | |
| **56 Program Reductions** | ($383,505) | R | ($383,505) | R |
| Reorganizes and consolidates the museum and its regional branches in the areas of administration, program, and operating functions. Eliminates salaries and benefits of 5 vacant positions and 4 filled positions. | -9.00 | | -9.00 | |

Vacant Positions
#60083949 Art Handler ($25,705)
#60083990 Curator of Furnishings & Decorative Arts ($42,860)
#60083981 Library Professional ($40,000)
#60084030 Museum Specialist ($33,229)
#60084043 Security Guard ($24,861)

Filled Positions
#60083942 Public Information Assistant IV ($27,615)
#60083957 Public Information Assistant III ($32,258)
#60084027 Museum Specialist ($32,796)
#60084035 Process Assistant IV ($27,615)

531211 SPA Reg Salary ($287,039)
531511 Soc Sec ($21,934)
531521 Retirement ($30,168)
531561 Medical ($44,361)

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **1500 Museum of History** | | | | |
| **57 Museum Closure** | ($519,876) | R | ($586,897) | R |
| Closes the Museum of the Cape Fear and transfers artifacts to the Museum of History in Raleigh. | -6.00 | | -14.00 | |

Eliminates salaries and benefits of 1 vacant and 5 filled positions with operating expenses in FY 2011-12 and eliminates salaries and benefits of 8 additional filled positions in FY 2012-13.

FY 2011-12

Vacant Position
#60084056 Security Guard ($26,220)

Filled Positions
#60084055 Museum Specialist ($32,796)
#60084057 Historical Interpreter I ($24,861)
#60084051 Assoc. Museum Curator ($40,105)
#60084053 Bldg. Envir Tech. ($25,718)
#60084052 Exhibit Builder ($30,631)

531211 SPA Reg Salary ($180,061)
531511 Soc Sec ($ 13,775)
531521 Retirement ($ 18,924)
531561 Medical ($ 29,580)
Operating Expenses ($277,536)

FY 2012-13

Filled Positions
#60084047 Administrator ( $66,029)
#60084050 Adm Asst V ($33,115)
#60084048 Museum Specialist ($38,824)
#60084058 Bldg. & Env Tech ($25,718)
#60084052 Carpenter ($30,361)
#60084049 Assoc Museum Curator ($38,599)
#60084054 Museum Specialist ($32,796)
#60084059 Historic Interpreter ($27,056)

531211 SPA Reg Salary ($442,468)
531511 Soc Sec ($ 33,849)
531521 Retirement ($ 46,503)
531561 Medical ($ 64,077)

| | | | | |
|---|---|---|---|---|
| **58 Close Museum of the Albemarle** | ($958,903) | R | ($958,903) | R |
| Closes the Museum of the Albemarle and eliminates salaries and benefits of 15 filled positions. | -15.00 | | -15.00 | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **Department-wide** | | | | |
| **59 Personnel Reductions** | ($1,280,263) | R | ($1,280,263) | R |
| Eliminates salaries and benefits of 8.51 additional positions vacant 6 months or more since January 1, 2011; and 20 positions vacant 100 or more days since March 31, 2011. | -28.51 | | -28.51 | |
| Positions vacant for 6 months or more | | | | |
| #60083367 Archives & Records Professional ($1) | | | | |
| #60083486 Office Assistant IV ($30,417) | | | | |
| #65010790 Transportation Coordinator ($29,502) | | | | |
| #60083569 Horticulture/grounds Technician (.38 FTE) ($1,329) | | | | |
| #65010906 Administrative Officer III ($41,173) | | | | |
| #65010907 Media Technician I ($25,705) | | | | |
| #60083505 Historic Interpreter I ($24,861) | | | | |
| #60090511 Museum Curator ($38,174) | | | | |
| #60090513 Museum Specialist ($32,796) | | | | |
| #60090514 Museum Exhibit Designer (.13 FTE) ($6,626) | | | | |
| 531211 SPA Reg Salary ($230,584) | | | | |
| 531511 Soc Sec ($17,640) | | | | |
| 531521 Retirement ($24,234) | | | | |
| 531561 Medical ($103,530) | | | | |
| Positions vacant for 100 or more days | | | | |
| #60080925 Heritage Tourism Officer ($38,543) | | | | |
| #65011681 Maritime Heritage Tourism Officer ($35,337) | | | | |
| #65011682 Heritage Tourism Officer ($35,337) | | | | |
| #65011683 Heritage Tourism Officer ($35,337) | | | | |
| #65011684 Heritage Tourism Officer ($35,337) | | | | |
| #65011685 Regional Development Officer ($38,174) | | | | |
| #60083349 Office Assistant IV ($29,656) | | | | |
| #60090501 Records Management Analyst ($37,000) | | | | |
| #60083465 Historic Sites Specialist II ($50,000) | | | | |
| #60083470 Historic Site Assistant ($25,355) | | | | |
| #60083585 Museum Specialist ($39,162) | | | | |
| #65011433 Assistant Conservator ($27,942) | | | | |
| #60083562 Exhibit Designer ($35,498) | | | | |
| #65010801 Utility Worker Supervisor ($27,380) | | | | |
| #65011464 Section Gardener ($26,584) | | | | |
| #65011455 Museum Exhibits Assistant ($29,502) | | | | |
| #65011424 Processing Assistant III ($24,092) | | | | |
| #60083777 Building & Environmental Technician ($23,866) | | | | |
| #60083804 Security Guard ($24,861) | | | | |
| #60083256 Deputy Secretary ($115,000) | | | | |
| 531211 SPA Reg Salary ($733,963) | | | | |
| 531511 Soc Sec ($56,148) | | | | |
| 531521 Retirement ($77,140) | | | | |
| 531561 Medical ($98,600) | | | | |
| **60 IT Reduction** | ($55,184) | R | ($55,184) | R |
| Reduces IT by 5%. | | | | |

| Senate Subcommittee on General Government | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| Total Legislative Changes | ($11,670,024) | R | ($14,407,792) | R |
| **Total Position Changes** | -122.51 | | -166.62 | |
| **Revised Budget** | **$60,994,609** | | **$58,256,841** | |

# Cultural Resources - Roanoke Island Commission

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$2,406,982** | | **$2,406,982** | |
| **Legislative Changes** | | | | |
| **1584 Roanoke Island Commission** | | | | |
| **61 Changes to Commission Funding**<br>Reduces General Fund appropriation by 50% in FY 2011-12 and eliminates all state funding in FY 2012-13 with Commission becoming self-supporting. | ($1,203,491) | R | ($2,406,982) | R |
| Total Legislative Changes | **($1,203,491)** | R | **($2,406,982)** | R |
| **Total Position Changes** | | | | |
| **Revised Budget** | **$1,203,491** | | **$0** | |

# General Assembly

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$54,593,047** | | **$54,593,047** | |
| **Legislative Changes** | | | | |
| **1213 Research Division** | | | | |
| **62 Transfer of General Statutes Commission** | $270,341 | R | $270,341 | R |
| Provides funding for positions and operations of the General statutes Commission that is transferred from the Department of Justice. | 3.00 | | 3.00 | |
| **1215 Building & maintenance** | | | | |
| **63 Reduce Division Budget and Personnel** | ($292,980) | R | ($212,565) | R |
| Reduces appropriations by funding Building & Maintenance Repairs from Carryforward Reserve each year. Additionally, eliminates salaries and benefits of 3.4 positions in FY 2012-13. | | | -3.40 | |
| **64 Continuation Review of Building & Maintenance Division** | ($2,572,506) | R | ($2,572,506) | R |
| Conducts a Continuation Review of facility services in the General Assembly during the 2011-12 Interim. The budget for the division, minus reductions authorized for FY 2012-13, is included as non-recurring, pending the findings and recommendations that will be reported to the 2012 Session. | $2,572,506 | NR | -31.60 | |
| **1216 Food Service** | | | | |
| **65 Reduce Operating Budget** | ($103,648) | R | ($210,348) | R |
| Increases prices in the cafeteria and snack bars by 10%. Additionally, eliminates salaries and benefits of 3.75 positions in FY 2012-13. | | | -3.75 | |
| **1217 Information Systems Division** | | | | |
| **66 Various Reductions to Operations** | ($2,653,145) | R | ($2,114,555) | R |
| Reduces the operating accounts in ISD and uses Carryforward Reserve to support non-personnel costs and 2 Temporary Time-Limited positions to work with Redistricting. | | | | |
| **1219 Program Evaluation Division** | | | | |
| **67 Expand Division Staff** | $345,000 | R | $345,000 | R |
| Expands staff in the Program Evaluation Division with the transfer of funding from the Performance Audit Division in the State Auditor's Office to support up to 5 positions. | 5.00 | | 5.00 | |

| Senate Subcommittee on General Government | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **1900 Committees & Other Reserves** | | | | |
| **68 Reduction to Reserves**<br>Reduces funding in the Reserves of Committees, Studies, and Contingencies (537195). | ($888,527) | R | ($636,435) | R |
| **Department-wide** | | | | |
| **69 Various Reductions to Operating Budget**<br>Reduces the budget each year in the following areas:<br><br>Reduces the number of interim days budgeted for Legislative Assistants from 3.5 days to 3 days during the first year of the biennium. Both years will be budgeted at 3.0 days during the interim with a reduction of $691,223.<br><br>Eliminates funding budgeted for the purchase of furniture (desk, chairs, tables & bookshelves)with a reduction of $55,000 in FY 2011-12 and $40,000 in FY 2012-13.<br><br>Reduces funding for staff travel which includes travel reimbursements, registration fees and education reimbursement. However, funding is maintained for staff in the Program Evaluation Division and Fiscal Research Division to pursue studies and conduct routine visits to state agencies and facilities. The budget is reduced $84,250 in FY 2011-12 and $94,250 in FY 2012-13.<br><br>Reduces some discretionary contracts and budgeted supplies within the Building & Maintenance and Food Services Sections with a reduction of $57,773 in FY 2011-12 and $81,810 in FY 2012-13.<br><br>Reduces NCSL annual dues by 20% with a reduction of $51,097 each year.<br><br>Reduces appropriations by funding the Legislative Library Learning Resources and subscriptions from Carryforward Reserve with a reduction of $188,000 in FY 2011-12 and $175,800 in FY 2012-13. | ($1,127,343) | R | ($442,957) | R |
| **70 Personnel Adjustments**<br>Eliminates salaries and benefits of 17 vacant permanent positions of which 2 are frozen from FY 2010-11 with a reduction of $1,033,504 each year. Also, eliminates salaries and benefits for 47 temporary positions of which 27 are frozen from FY 2010-11 at a reduction of $849,746 in FY 2011-12 and $881,310 in FY 2012-13. | ($1,883,250)<br>-17.00 | R | ($1,914,814)<br>-17.00 | R |
| **71 Reserve Funds**<br>Appropriates funds for reserve to support security upgrades. | $3,000,000 | NR | | |

| Senate Subcommittee on General Government | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **Department-wide** | | | | |
| **72 Reserve for Information Technology Study** | | | | |
| Provides funding for the General Assembly to conduct a comprehensive, two-year evaluation of information technology operations throughout State government. | $2,000,000 | NR | $3,000,000 | NR |
| Total Legislative Changes | **($8,906,058)** | **R** | **($7,488,839)** | **R** |
| | **$7,572,506** | **NR** | **$3,000,000** | **NR** |
| **Total Position Changes** | -9.00 | | -47.75 | |
| **Revised Budget** | **$53,259,495** | | **$50,104,208** | |

# Governor

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$6,189,478** | | **$6,189,478** | |
| **Legislative Changes** | | | | |
| **1420 Center for 21st Century Skills** | | | | |
| **73 Eliminates Program and Personnel Adjustment** | ($91,738) | R | ($91,738) | R |
| Eliminates the remainder of budget for the Center for 21st Century Skills, including a vacant position 60008514 (Director of 21st Century Skills Center). | -1.00 | | -1.00 | |
| 531111 Reg Salary ($35,000) | | | | |
| 531511 Social Security ($2,678) | | | | |
| 531521 Retirement ($3,679) | | | | |
| 531561 Medical Insurance ($4,930) | | | | |
| 532199 Misc Contractual Svcs ($45,451) | | | | |

| Senate Subcommittee on General Government | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **Department-wide** | | | | |
| **74 Personnel and IT Reductions** | ($1,037,758) | R | ($1,037,758) | R |
| Eliminates the salaries and benefits of 6 vacant positions: | -14.00 | | -14.00 | |
| #60000881 Policy Analyst ($16,000)<br>#60008496 Policy Analyst ($53,000)<br>#60008480 W/A Administrative Assistant I ($39,000)<br>#60008482 Operations Director ($82,200)<br>#60008494 Deputy Director of Hispanic Affairs ($32,000)<br>#60038174 Policy Analyst ($66,000) | | | | |
| 531111 Reg Salaries ($288,200)<br>531511 Social Security ($ 22,047)<br>531521 Retirement ($ 30,290)<br>531561 Medical Insurance ($ 29,580)<br>SUBTOTAL Vacant Positions ($370,117) | | | | |
| Eliminates the salaries and benefits of 8 filled positions: | | | | |
| #65007128 Special Advisor - Education & Innovation ($109,509)<br>#60008516 Deputy Communications Director ($81,000)<br>#60008485 Teacher Advisor ($65,000)<br>#60031506 Policy Analyst ($45,000)<br>#60083951 Regional Director ($50,000)<br>#60008474 Faith Outreach Coordinator ($20,000)<br>#60008507 Governor's Communications Director ($115,200)<br>#60008501 Asst. External Scheduler ($38,780) | | | | |
| 531111 Reg Salaries ($524,489)<br>531511 Social Security ($ 40,123)<br>531521 Retirement ($ 55,124)<br>531561 Medical Insurance ($ 39,440)<br>SUBTOTAL Filled Positions ($660,176) | | | | |
| Reduces IT each year by 5% ($7,465). | | | | |
| **75 Transfer Personnel** | ($172,921) | R | ($172,921) | R |
| Transfers the Deputy Legal Counsel (#60008505) and Policy Analyst (#60071726) to the Office of the Lieutenant Governor. | -2.00 | | -2.00 | |
| 531111 Reg Salaries ($138,000)<br>531511 Social Security ($ 10,557)<br>531521 Retirement ($ 14,504)<br>531561 Medical Insurance ($ 9,860) | | | | |
| Total Legislative Changes | **($1,302,417)** | R | **($1,302,417)** | R |
| **Total Position Changes** | -17.00 | | -17.00 | |
| **Revised Budget** | **$4,887,061** | | **$4,887,061** | |

# Housing Finance Agency

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$13,877,996** | | **$13,877,996** | |
| **Legislative Changes** | | | | |
| **76 Program Reduction** | ($1,123,245) | R | ($1,123,245) | R |
| Reduces funding for the Housing Trust Fund. | | | | |
| **8104 Home Protection Program** | | | | |
| **77 Program Reduction** | ($2,081,700) | R | ($2,081,700) | R |
| Reduces funding for the Home Protection Program. | | | | |
| Total Legislative Changes | **($3,204,945)** | R | **($3,204,945)** | R |
| **Total Position Changes** | | | | |
| **Revised Budget** | **$10,673,051** | | **$10,673,051** | |

# Insurance

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$33,458,756** | | **$33,458,756** | |

**Legislative Changes**

**1110 Administration**

**78 Reduce Expenditures** ($25,221) R ($25,221) R

Reduces various expenditure accounts in the division to more closely match actual costs.

| | |
|---|---|
| 532199 Misc Contractual Svs | ($15,957) |
| 532814 Cellular Phone Svs | ($ 4,346) |
| 532942 Other Employees Ed Expense | ($ 4,918) |

**1200 Company Services Group**

**79 Reduce Expenditures** ($50,688) R ($50,688) R

Reduces various expenditure accounts in the division to more closely match actual costs.

| | |
|---|---|
| 532814 Cellular Phone Svs | ($ 119) |
| 532942 Other Employees Ed Expense | ($50,569) |

**1300 Technical Services Group**

**80 Reduce Employee Education Expense** ($11,589) R ($11,589) R

Reduces expenditures each fiscal year in 532942 - Employee Education Expense.

**1400 Public Services**

**81 Reduce Cellular Phone Service** ($2,200) R ($2,200) R

Reduces expenditures each fiscal year in 532814 - Cellular Phone Service.

**1500 Office of State Fire Marshal**

**82 Adjust Expenditures** ($356,265) R ($356,265) R

Reduces expenditures for cellular phone service and eliminates funding for the sale of Code Books as the sale of Code Books is transferred to the publisher.

| | |
|---|---|
| 532814 Cellular Phone Svs | ($ 23,315) |
| 532850 Print, Bind, & Duplication | ($330,000) |
| 532942 Other Employees Ed Expense | ($ 2,950) |

| Senate Subcommittee on General Government | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **1500 Office State Fire Marshal** | | | | |
| **83 Transfer of Fire Protection Grant Fund**<br>Transfers the Fire Protection Grant Fund from the Office of State Budget and Management to the Department of Insurance. | $3,677,513 | R | $3,677,513 | R |
| **Department-wide** | | | | |
| **84 Eliminate Vacant Positions and Reduce Expenditure Accounts**<br>Eliminates salaries and benefits of 3 vacant positions. | ($139,612) | R | ($139,612) | R |
| | -3.00 | | -3.00 | |
| Vacant Positions<br>60013339 Processing Assistant III ($28,490)<br>60013607 Office Assistant IV ($25,705)<br>65004532 Insurance Company Examiner ($51,443) | | | | |
| 531211 SPA Reg Salary ($105,638)<br>531511 Soc Sec ($8,081)<br>531521 Retirement ($11,103)<br>531561 Medical ($14,790) | | | | |
| **85 Reduction to Consumer Protection Services Fund**<br>Reduces transfer to Consumer Protection Services Fund to more closely match actual expenditures. | ($156,773) | R | ($156,773) | R |
| 531111 Salaries ($38,473)<br>531511 Social Security ($2,943)<br>531521 Retirement ($4,044)<br>532110 Legal Services ($111,313) | | | | |
| Total Legislative Changes | **$2,935,165** | R | **$2,935,165** | R |
| **Total Position Changes** | -3.00 | | -3.00 | |
| **Revised Budget** | **$36,393,921** | | **$36,393,921** | |

# Insurance - Volunteer Safety Workers' Compensation Fund

**GENERAL FUND**

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **Recommended Continuation Budget** | **$4,500,000** | | **$4,500,000** | |
| **Legislative Changes** | | | | |
| **1900 Reserves & transfers** | | | | |
| **86 Reduce Volunteer Safety Workers' Compensation Fund** | ($706,000) | R | ($1,876,346) | R |
| Reduces funding for the Volunteer Safety Workers' Compensation Fund. | ($1,500,000) | NR | | |
| Total Legislative Changes | **($706,000)** | **R** | **($1,876,346)** | **R** |
| | **($1,500,000)** | **NR** | | |
| **Total Position Changes** | | | | |
| **Revised Budget** | **$2,294,000** | | **$2,623,654** | |

# Lieutenant Governor

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$954,868** | | **$954,868** | |
| **Legislative Changes** | | | | |
| **1110 Administration** | | | | |
| **87 Management Flexibility Reduction**<br>Requires the Lt. Governor's Office to reduce the operating budget of the office by $284,398 recurring. | ($284,398) | R | ($284,398) | R |
| **88 Transfer of Positions from the Governor's Office**<br>Transfers two positions and benefits from the Governor's Office to the Lt. Governor's Office. Positions and benefits are as follows:<br><br>60008505 Deputy Legal Counsel $120,727<br>60071726 Policy Analyst $52,194 | $172,921<br>2.00 | R | $172,921<br>2.00 | R |
| **89 Eliminate Vacant Position and Benefits**<br>Eliminates Assistant Policy Director Position and benefits (60008622). | ($45,695)<br>-1.00 | R | ($45,695)<br>-1.00 | R |
| **90 Reduce Salary, Benefits, and Longevity to Actual**<br>Reduces the following accounts to actual:<br><br>531111 Salaries ($8,327)<br>531511 Social Security ($67)<br>531521 Retirement ($875)<br>531521 Longevity ($5,168) | ($14,437) | R | ($14,437) | R |
| **91 Reduce Operating Expenses**<br>Reduces the following operating expense accounts:<br><br>532814 Cellular Phones ($6,750)<br>532870 Cable TV ($689)<br>532840 Postage ($575) | ($8,014) | R | ($8,014) | R |
| Total Legislative Changes | **($179,623)** | R | **($179,623)** | R |
| **Total Position Changes** | 1.00 | | 1.00 | |
| **Revised Budget** | **$775,245** | | **$775,245** | |

# Office of Administrative Hearings

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$4,328,822** | | **$4,328,822** | |
| **Legislative Changes** | | | | |
| **1100 Administration and Operations** | | | | |
| **92 Reduce Payments to ITS**<br>Reduces data and communications (532800) by 5%. | ($7,612) | R | ($7,612) | R |
| **93 Type I Transfer of Human Relations Commission to OAH**<br>Transfers the Human Relations Commission to the Civil Rights Division at OAH. The transfer detail is in the Department of Administration's section of the report. | $841,613<br>10.68 | R | $841,613<br>10.68 | R |
| **1100 Civil Rights Division** | | | | |
| **94 Eliminate Vacant Position**<br>Eliminates vacant Civil Rights Investigator Position (60088595) and benefits. | ($57,710)<br>-1.00 | R | ($57,710)<br>-1.00 | R |
| **1100 Hearings Division** | | | | |
| **95 Eliminate Administrative Law Judge Position**<br>Eliminates one Administrative Law Judge position and benefits. | ($121,242)<br>-1.00 | R | ($121,242)<br>-1.00 | R |
| **Administrative Hearings** | | | | |
| **96 Funding from DHHS for Medicaid Mediation**<br>Transfers up to $2.25 million per year from the Department of Health and Human Services to the Office of Administrative Hearings for the purpose of providing Medicaid mediation services. | | | | |
| Total Legislative Changes | **$655,049** | R | **$655,049** | R |
| **Total Position Changes** | 8.68 | | 8.68 | |
| **Revised Budget** | **$4,983,871** | | **$4,983,871** | |

# Revenue

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$88,370,399** | | **$88,370,399** | |
| **Legislative Changes** | | | | |
| **1600 Collection Division** | | | | |
| **97 Close Three Offices** | ($124,054) | R | ($124,054) | R |
| Closes Offices in Nags Head, Rocky Mount, and Winston-Salem | | | | |
| **1700 Motor Fuels Division** | | | | |
| **98 Eliminate Vacant Positions** | | | | |
| Eliminates 15 vacant positions in the Motor Fuels Division funded by the Highway Fund. | | | | |
| **1900 Reserves and Transfers** | | | | |
| **99 Remaining Resolution Initiative Funding** | ($760,075) | R | ($760,075) | R |
| Reduces the remaining funds appropriated for the Resolution Initiative. The funds were originally appropriated in FY 2010-11. | | | | |
| **Department-wide** | | | | |
| **100 Reduce General Fund Supported Operating Expenditures** | ($371,495) | R | ($371,495) | R |
| Reduces additional eight positions and associated benefits that are vacant at the Department | -8.00 | | -8.00 | |
| 60082603 Processing Assistant IV ($37,560) | | | | |
| 60081507 Revenue Tax Technician ($55,395) | | | | |
| 60081800 Processing Assistant III ($34,306) | | | | |
| 60081505 Information Processing Technician ($54,583) | | | | |
| 60093429 Processing Assistant IV ($41,527) | | | | |
| 60082584 Processing Assistant V ($39,907) | | | | |
| 60081612 Revenue Tax Technician ($52,675) | | | | |
| 60082692 Information Processing Technician ($50,861) | | | | |

**Department-wide**

| | | | | |
|---|---|---|---|---|
| **101 Eliminate Vacant Positions** | ($3,498,026) | R | ($3,498,026) | R |
| Eliminates 61 vacant positions throughout the Department and related benefits. Positions are as follows: | -61.00 | | -61.00 | |

60081469 Program Assistant V
60081535 Information Processing Technician
60081540 Team Leader
60082951 Processing Assistant V
60082846 Administrative Officer II
60082953 Processing Assistant IV
60082759 Processing Assistant III
60081588 Processing Assistant III
60082668 Data Entry Specialist
60082564 Information Processing Technician
60081675 Information Processing Technician
60081494 Information Processing Technician
60081482 Information Processing Technician
60082949 Processing Assistant IV
60081660 Revenue Officer I
60081781 Law Enforcement Agent
60082835 Processing Assistant IV
60082685 Revenue Officer II
60081633 Processing Assistant IV
60081597 Processing Assistant III
60081637 Information Processing Technician
60082570 Processing Assistant III
60082756 Processing Assistant III
60081566 Auditor
60082502 Processing Assistant III
60082553 Processing Assistant IV
60082661 Data Entry Specialist
60082599 Administrative Officer II
60082966 Administrative Assistant III
60081512 Processing Assistant V
60082682 Data Entry Specialist
60082569 Processing Assistant IV
60082758 Processing Assistant IV
60081520 Processing Assistant III
60082537 Accounting Manager
60081779 Law Enforcement Agent
60081657 Manager
60081434 Audit Director
60081748 Revenue Officer I
60082594 Processing Assistant V
60083099 Office Assistant V
60081531 Revenue Officer I
60081635 Administrative Assistant II
60081548 Administrative Assistant III
60081579 Administrative Assistant II
60081311 ETM Administrator
60082396 Revenue Administrative Officer
60082169 Field Auditor SCCI
60083224 Special Agent
60082057 Revenue Officer I

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **Department-wide** | | | | |
| 60081837 Interstate Field Officer<br>60081337 DTAX/Audit Workbench/Taxmaster Admin<br>60081405 ETM Developer<br>60081803 Interstate Field Auditor<br>60083098 Audit Manager<br>60082033 Field Auditor<br>60081817 Interstate Field Auditor<br>60081399 ETAX/Audit Workbench/Taxmaster Developer<br>60082444 Revenue Officer Trainee<br>60082440 Revenue Officer<br>60082059 Revenue Officer Trainee | | | | |
| **102 Convert Collections Positions to Receipt Supported**<br>Converts 30 collections positions to receipt support. The source of the receipt is the Collection Assistance Fee. Positions numbers are as follows: 60082149, 60082449, 60082041, 60082129, 60082154, 60082165, 60082243, 60082244, 60081863, 60081493, 60081550, 60081747, 60082435, 60082132, 60082136, 60082137, 60082451, 60082445, 60082455, 60082047, 60082053, 60082452, 60082148, 60082162, 60082163, 60082152, 60082176, 60082454, 60082077, 60082081. | ($1,896,157)<br>-30.00 | R | ($1,896,157)<br>-30.00 | R |
| **103 Reduce Supplemental Wages to FY 2010 Actual**<br>Reduces supplemental wages to FY 2009-10 actual.<br><br>531411 - OT Pay ($39,766)<br>531421 - Holiday Perm Pay - ($2,121) | ($41,887) | R | ($41,887) | R |
| **104 Reduce Temporary Wages**<br>Reduce Temporary Wages and benefits in the following areas:<br><br>1600 - Administration ($5,018)<br>1603 - Human Resources ($33,784)<br>1605 - IT ($39,922)<br>1621 - Corporate ($18,488)<br>1643 - TPA (316,547)<br>1660 - Collections ($286,799)<br>1670 - USUB ($14,328)<br>1681 - Administrative Services ($97,025)<br>1685 - DPPD ($966,912) | ($1,778,823) | R | ($1,778,823) | R |
| **105 Reduce Budgeted Longevity**<br>Reduces budgeted longevity (521461). | ($32,459) | R | ($32,459) | R |
| **106 Reduce Payments to ITS**<br>Reduces payments to Information Technology Services by 5% (532800). | ($602,867) | R | ($602,867) | R |

| Senate Subcommittee on General Government | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **Information Technology** | | | | |
| **107 Imaging System License**<br>Corrects error, a non-recurring expenditure for an imaging system license was mistakenly coded as recurring in FY 2010-11. This reduction corrects the error. | ($613,440) | R | ($613,440) | R |
| **Local Government Unit** | | | | |
| **108 Local Government Unit to Receipts**<br>Moves positions to the Local Government Unit within the Department to receipt support to create a point of contact regarding tax distributions. Over $200 million per year is distributed to local governments each year. | ($451,578)<br>-7.00 | R | ($451,578)<br>-7.00 | R |
| Total Legislative Changes | **($10,170,861)** | R | **($10,170,861)** | R |
| **Total Position Changes** | -106.00 | | -106.00 | |
| **Revised Budget** | **$78,199,538** | | **$78,199,538** | |

# Secretary of State

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$11,076,972** | | **$11,076,972** | |
| **Legislative Changes** | | | | |
| **1120 Publications** | | | | |
| **109 Reduce Printing Budget**<br>Eliminates the printing of the NC Directory of County and State Officials, which is available electronically, and the free distribution of the NC Manual. Budget code affected is 532850. | ($77,268) | R | ($77,268) | R |
| **1150 Lobbyist Registration** | | | | |
| **110 Eliminate Four Positions in Lobbyist Registration**<br>Eliminates four positions and benefits in Lobbyist Registration Division.<br><br>60008804 Registrar/Examiner ($42,295)<br>60008805 Registrar/Examiner ($50,469)<br>65004907 Office Assistant ($36,176)<br>60008807 Attorney I ($71,851) | ($200,791)<br>-4.00 | R | ($200,791)<br>-4.00 | R |
| **Department-wide** | | | | |
| **111 Reduce Operating Expenditures and Eliminate Cell Phones**<br>Reduces operating expenditures in a variety of accounts and eliminates budget for cellular phones.<br><br>532700 Travel and Other Employee Expense ($25,423)<br>532814 Cellular Phone Service ($9,809)<br>532900 Other Services ($7,342)<br>533100 General And Administrative Supplies ($26,100<br>533900 Other Materials and Supplies<br>534500 Equipment ($42,966)<br>534700 Intangible Assets ($17,000) | ($136,290) | R | ($136,290) | R |
| **112 Reduce Payments to ITS**<br>Reduces payments to ITS (532800) by 5%. | ($8,060) | R | ($8,060) | R |
| Total Legislative Changes | **($422,409)** | R | **($422,409)** | R |
| **Total Position Changes** | -4.00 | | -4.00 | |
| **Revised Budget** | **$10,654,563** | | **$10,654,563** | |

# State Board of Elections

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$6,189,011** | | **$6,189,011** | |
| **Legislative Changes** | | | | |
| **1100 Administration** | | | | |
| **113 Correct Error in Base Budget**<br>Corrects error, a non-recurring expenditure was miscoded as recurring (532700) related to a move into office space. | | | ($60,000) | R |
| **114 Administrative Services**<br>Reduces expenditures for workshops and conferences (532181) and administrative services (532170). | ($23,000) | R | ($23,000) | R |
| **1200 Campaign Reporting** | | | | |
| **115 Reduce Administrative Services**<br>Reduces Administrative Services (532170). | ($45,110) | R | ($45,110) | R |
| **1300 Voter Registration and Systems** | | | | |
| **116 Eliminate Positions in Voter Registration and Systems**<br>Eliminates all 8 District Elections Technicians ($510,610),Voting Systems Project Manager (60088251 - $65,191), Technology Support Analyst (65006606 - $64,010), and associated benefits. | ($637,706)<br>-10.00 | R | ($637,706)<br>-10.00 | R |
| **117 Reduce Assigned Vehicles**<br>Reduces payments to Motor Fleet Management for vehicles from 8 District Elections Technicians (532700). | ($32,634) | R | ($32,634) | R |
| **Department-wide** | | | | |
| **118 ITS Reduction**<br>Reduces data and procurement purchases by 5% (532800). | ($28,787) | R | ($28,787) | R |
| **119 Eliminate Vacant Positions**<br>Eliminates four vacant positions and benefits in the State Board of Elections<br><br>65012228 - Elections Investigator<br>65005662 - Business Officer<br>60088258 - Compliance Specialist<br>65012227 - Attorney II | ($235,171)<br>-4.00 | R | ($235,171)<br>-4.00 | R |

| Senate Subcommittee on General Government | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| Total Legislative Changes | ($1,002,408) | R | ($1,062,408) | R |
| **Total Position Changes** | -14.00 | | -14.00 | |
| **Revised Budget** | **$5,186,603** | | **$5,126,603** | |

# State Budget & Management

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$6,963,796** | | **$6,963,796** | |

**Legislative Changes**

**1310 Office of State Budget & Management**

**120 Personnel Adjustment and IT Reduction** ($546,454) R ($546,454) R

Eliminates 6 vacant positions and reduces salary reserves.

-6.00 -6.00

#60008592 State Budget Management Analyst ($62,463)
#60008553 State Budget Management Analyst ($64,383)
#60008582 State Budget Management Analyst ($102,163)
#60008577 Human Resources Director ($62,429)
#60008585 State Budget Management Analyst ($57,000)
#60008609 State Budget Management Analyst ($71,925)

| | |
|---|---|
| 531211 Salaries | ($420,363) |
| 531511 Social Security | ($32,158) |
| 531521 Retirement | ($44,180) |
| 531561 Medical Insurance | ($29,580) |
| 531211 Salary Reserves | ($ 6,774) |

Reduces funding for the Information Technology Services by 5% ($13,399).

**121 Operating Reductions** ($34,900) R ($34,900) R

Reduces operating expenses.

| | |
|---|---|
| 532145 Server Support Services | ($29,100) |
| 532840 Postage, Freight & Delivery | ($ 3,800) |
| 534530 Other DP Equipment | ($ 1,500) |
| 534534 PC/Printer Equipment | ($ 500) |

**122 Longevity Reduction** ($21,867) R ($21,867) R

Reduces longevity to actual.

**123 Integrated Budget Information System (IBIS) Funding** ($511,912) R ($511,912) R

Eliminates funding for the Integrated Budget Information System (IBIS) continuation request for software support, hardware, and databases.

| | |
|---|---|
| 532199 Miscellaneous Contractual Services | ($250,000) |
| 532800 Communication & Data Processing | ($261,912) |

| Senate Subcommittee on General Government | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| Total Legislative Changes | ($1,115,133) | R | ($1,115,133) | R |
| **Total Position Changes** | -6.00 | | -6.00 | |
| **Revised Budget** | **$5,848,663** | | **$5,848,663** | |

# State Budget and Management - Special

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$5,934,311** | | **$5,934,311** | |
| **Legislative Changes** | | | | |
| **1022 Special Appropriations** | | | | |
| **124 Humanities Council Grant**<br>Reduces funding for NC Humanities Council(536G02). | ($43,000) | R | ($43,000) | R |
| **1023 Fire Protection Grant Fund** | | | | |
| **125 Transfer of Fire Protection Grant Fund**<br>Transfers management of the State Fire Protection Grant Fund to the Department of Insurance from the Office of State Budget and Management. The General Fund appropriation is reduced 10%. | ($3,677,513) | R | ($3,677,513) | R |
| **1900 Reserves & Transfers** | | | | |
| **126 NC Symphony**<br>Provides funding for the NC Symphony to leverage match to support the operation. | $1,500,000 | NR | | |
| **127 Adjust Funds for Health Care Reform and Board of Elections Software**<br>Eliminates funding ($1,101,293) and positions each year for DOI Healthcare Reform Reserve (537122). Additionally, reduces budget for non-recurring ($671,893) expense that was classified as recurring in the 2010 Session for the State Board of Elections Software Purchase (to comply with HB 961). | ($1,773,186)<br>-13.00 | R | ($1,773,186)<br>-13.00 | R |
| Total Legislative Changes | **($5,493,699)**<br>**$1,500,000** | R<br>NR | **($5,493,699)** | R |
| **Total Position Changes** | -13.00 | | -13.00 | |
| **Revised Budget** | **$1,940,612** | | **$440,612** | |

# State Controller

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$32,517,077** | | **$32,517,077** | |

**Legislative Changes**

**1000 Department-wide**

**128 Eliminate Vacant Positions** ($1,172,321) R ($1,172,321) R

Eliminates salaries and benefits of 14 vacant positions and reduces IT costs by 5% or $197,689 each year in expenditure accounts 532800 - Communications/Data Processing. -14.00 -14.00

Vacant Positions

| | | |
|---|---|---|
| 60015308 | Information Processing Technician | ($35,697) |
| 60087149 | State Controller Financial Specialist | ($51,375) |
| 60087175 | Administrative Support Associate | ($50,831) |
| 60087196 | Bus & Tech Applications Analyst | ($80,145) |
| 60090520 | State Controller Risk Mitigation Spec | ($61,274) |
| 60091131 | Information Processing Technician | ($39,954) |
| 60091133 | Information Processing Technician | ($29,502) |
| 60091720 | Information Processing Technician | ($38,792) |
| 60092194 | Administrative Support Specialist | ($39,400) |
| 65009029 | Business Systems Analyst III | ($75,000) |
| 65008979 | Staff Development Specialist II | ($47,791) |
| 65008981 | Staff Development Specialist II | ($56,667) |
| 65008996 | Business & Technology Applications Spec. | ($80,000) |
| 65009030 | Bus. Systems Analyst II | ($80,000) |

| | | |
|---|---|---|
| 531211 | SPA Reg Salary | ($766,428) |
| 531511 | Soc Sec | ($ 58,632) |
| 531521 | Retirement | ($ 80,552) |
| 531561 | Medical | ($ 69,020) |
| | Subtotal Positions | ($974,632) |

**129 Reduce BEACON Reserve**

Reduces funding in BEACON Reserve that leaves a balance of $2,427,928 that will support operations in Reporting Support, Production Support, Security, and BASIS support for the biennium. ($536,036) NR ($536,036) NR

**130 Reduce Account Balance**

Reduces General Fund by transferring funding from the unclaimed property account. ($72,500) NR ($72,500) NR

| Senate Subcommittee on General Government | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **1000 Department-wide** | | | | |
| **131 Personnel And Operating Budget Reductions to CJLEADS**<br>Eliminates salaries and benefits of 4.50 vacant positions and reduces operating budget.<br><br>Vacant Positions<br>65011662 Business Systems Analyst III ($75,000)<br>65011663 Staff Development Specialist II ($47,791)<br>65011667 Staff Development Specialist II ($56,667)<br>65011705 Business & Technology Applications Spec. ($80,000)<br>65011706 Bus. Systems Analyst II ($80,000)<br><br>531211 SPA Reg Salary ($275,000)<br>531511 Soc Sec ($21,038)<br>531521 Retirement ($28,903)<br>531561 Medical ($22,185)<br>SUBTOTAL Positions ($347,126)<br><br>Operating Budget Reductions<br>Reduces SAS Customized Services ($625,000)<br>Reduces State Agency Development ($1,200,000)<br>Reduces Other Technology Services ($192,879)<br>Reduces IT by 5% ($2,262)<br>SUBTOTAL Operating Budget Reductions ($2,620,141) | ($2,367,263)<br>-4.50 | R | ($2,367,263)<br>-4.50 | R |
| Total Legislative Changes | **($3,539,584)** | R | **($3,539,584)** | R |
| | **($608,536)** | NR | **($608,536)** | NR |
| **Total Position Changes** | -18.50 | | -18.50 | |
| **Revised Budget** | **$28,368,957** | | **$28,368,957** | |

# Treasurer

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$10,538,203** | | **$10,538,203** | |
| **Legislative Changes** | | | | |
| **1300 Local Government Operations** | | | | |
| **132 Integrated Document Management System**<br>Provides funding for the Integrated Document Management System, which is receipt supported. Requirements total $160,000 in FY 2011-12 of which $15,000 is recurring and $145,000 is non-recurring. The $15,000 is continued in FY 2012-13. | | | | |
| **1310 Local Government Operations** | | | | |
| **133 Convert Division to Receipt Support**<br>Converts the State and Local Government Finance Division to receipt-support. | ($3,324,834)<br>-36.00 | R | ($3,324,834)<br>-36.00 | R |
| **Department-wide** | | | | |
| **134 Reduced Funding for Personnel and Operations**<br>Reduces funding for five positions that were converted to receipt support with a reduction each year of $526,910. Additionally, reduces Travel & Other Employee Expenses in FY 2011-12 ($23,624), Financial/Audit Services in FY 2012-13 ($58,905), and IT by 5% each year ($5,804). | ($556,338) | R | ($591,619) | R |
| Total Legislative Changes | **($3,881,172)** | R | **($3,916,453)** | R |
| **Total Position Changes** | -36.00 | | -36.00 | |
| **Revised Budget** | **$6,657,031** | | **$6,621,750** | |

# Treasurer - Retirement for Fire and Rescue

| | GENERAL FUND | |
|---|---|---|
| | FY 11-12 | FY 12-13 |
| **Recommended Continuation Budget** | **$17,812,114** | **$17,812,114** |
| **Legislative Changes** | | |
| **135 NO LEGISLATIVE ACTION REPORTED** | | |
| Total Legislative Changes | | |
| **Total Position Changes** | | |
| **Revised Budget** | **$17,812,114** | **$17,812,114** |

# TRANSPORTATION
# Section K

# Highway Fund

| | HIGHWAY FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$1,806,351,974** | | **$1,812,408,831** | |
| **Legislative Changes** | | | | |
| **Administration** | | | | |
| **1 General Administration - Cuts**<br>Decreases funds to the General Administration budget. This includes the elimination of seven (7) vacant positions funded through General Administration funds. | ($4,507,486)<br>-7.00 | R | ($4,507,486)<br>-7.00 | R |
| **2 General Administration - Internal Consolidations**<br>Reduces budget through internal consolidations and eliminations to the General Administration budget. | ($1,071,606)<br>-41.00 | R | ($1,071,606)<br>-41.00 | R |
| **3 Eliminate Aeronautics Council and Funding**<br>Eliminates funding for the Aeronautics Council. The Council is funded through General Administration fund code 84210-0041. | ($14,435) | R | ($14,435) | R |
| **4 Eliminate Bicycle Committee and Funding**<br>Eliminates funding for the North Carolina Bicycle Committee. The Committee is funded through General Administration fund code 84210-0035. | ($2,070) | R | ($2,070) | R |
| **5 Eliminate Vacant Ferry Division Position**<br>Eliminates funding for one vacant Administrative Secretary II position in the Ferry Division's Morehead City office. This position is funded through General Administration fund code 84210-7040. | ($39,327)<br>-1.00 | R | ($39,327)<br>-1.00 | R |
| **6 Transfer One Public Transportation Employee to Receipt Support**<br>Transfers funding for one position (position number 60029757) in the Public Transportation Division to receipt support. This position is funded through General Administration fund code 84210-0036. | ($63,528)<br>-1.00 | R | ($63,528)<br>-1.00 | R |
| **7 Highway Administration - Eliminate Keep America Beautiful Transfer**<br>Eliminates funding for the Keep America Beautiful grant (non-profit operating grant) in the Highway Administration budget. | ($40,000) | R | ($40,000) | R |
| **Construction** | | | | |
| **8 Access and Public Service Roads**<br>Reduces funding to the Access and Public Service Roads. The total budget is $1,758,885 in both years of the biennium. | ($101,115) | R | ($101,115) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **9 Secondary Roads** | | | | |
| Reduces funding for secondary road construction in order to have greater flexibility to use funds across the State-maintained road network by shifting funds to the maintenance categories of contract resurfacing, system preservation, and to the general maintenance reserve. The total budget is $54,373,921 in FY 2011-12 and $53,480,182 in FY 2012-13. | ($35,000,000) | NR | ($35,000,000) | NR |
| **10 Spot Safety Program** | $3,000,000 | R | $3,000,000 | R |
| Increases funding to the Spot Safety program to improve safety on State maintained roads. The total budget is $12,100,000 in both years of the biennium. | | | | |
| **Department-wide** | | | | |
| **11 Consolidate Call Center Functions** | | | $556,074 | R |
| Transfers funds to the new consolidated call center in FY 2012-13 to support the cost of the ferry reservations line. It is anticipated that the call center will be staffed by contracted employees, not State employees. | | | | |
| **Division of Motor Vehicles** | | | | |
| **12 Driver License Continuation Review** | ($47,065,069) | R | ($47,713,947) | R |
| Eliminates recurring funds for the Driver License program within the Division of Motor Vehicles and supplants with non-recurring funds for FY 2011-12. Program funding will be re-examined for FY 2012-13, per a Continuation Review. | $47,065,069 | NR | | |
| **13 Reduce Driver & Vehicle Services Operating Funds** | ($4,224,000) | R | ($4,224,000) | R |
| Reduces operating funds per projected driver (license issuance) and vehicle services (contractor commission) transactions. Reductions are net of the expected increase in license production costs upon implementation of the New Generation Driver License System in FY 2011-12. | | | | |
| **14 Shift Positions to Receipt-Support** | ($800,319) | R | ($800,319) | R |
| Increases budgeted emission inspection (electronic authorization) receipts to support half of the personnel costs for License & Theft Bureau law enforcement positions. | | | | |
| **15 Consolidate Inspection Audits** | ($2,188,668) | R | ($2,188,668) | R |
| Eliminates 39 non-sworn, Emission Specialist positions per a restructuring of the Division of Motor Vehicles Inspection Program. Presently, when an Emission Specialist audits an inspection station and detects a violation, a sworn law enforcement agent is notified for enforcement. Adjustments to Inspector's duties and technological upgrades permit this workflow to be streamlined. | -39.00 | | -39.00 | |
| Receipts budgeted for these positions are reallocated to offset License & Theft Bureau personnel and operating expenses. | | | | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **16 Establish Per Record Fee for Bulk Data**<br>Establishes a fee of three cents ($.03) per partial license, registration, and accident report data record downloaded by third parties, principally for resale. Revenues are projected to increase by $5,049,796 recurring. Highway Fund appropriations are reduced per projected revenues. | ($5,049,796) | R | ($5,049,796) | R |
| **17 Eliminate Vacant Positions**<br>Eliminates vacant positions within the Division of Motor Vehicles. | ($343,990)<br>-5.00 | R | ($417,117)<br>-7.00 | R |
| **18 Implement Credit/Debit Payments at Driver License Offices**<br>Provides funds to offset transactional costs upon implementation of merchant card (credit/debit) point-of-sale processing at driver license offices. Pilot implementation is proposed for January 2012. Second year transactional costs are annualized. Point-of-sale terminal and other installation costs will be supported with existing funds. | $648,879 | R | $1,297,757 | R |
| **Governor's Highway Safety Program** | | | | |
| **19 GHSP - Cuts**<br>Eliminates a Public Relations Officer position supported by 50 percent highway funds and 50 percent federal funds, and shifts the employee into a vacant position fully supported by federal funds. | ($28,233)<br>-0.50 | R | ($28,233)<br>-0.50 | R |
| **20 GHSP - Cuts**<br>Eliminates costs to Board in fund code 84210-0042. | ($3,700) | R | ($3,700) | R |
| **Intermodal Divisions** | | | | |
| **21 Division-wide**<br>Appropriates $24,000,000 of accumulated unencumbered fund balance from the five intermodal divisions. This balance resulted primarily from funds encumbered as the state matching component for grant applications for federal funds that were not awarded. | | | | |
| **22 Aviation Division - Cuts**<br>Reduces grant funds for commercial air carrier airports by $1,200,000, miscellaneous aviation programs by $1,100,000, and general aviation airports by $750,000. | ($3,050,000) | R | ($3,050,000) | R |
| **23 Ferry Division - Cuts**<br>Reduces non-essential seasonal temporary employees; reduces fuel costs through engine RPM adjustments and from increasing hull cleanings from every two years to annually; eliminates non-essential overtime; and, reduces consumables used by operations and vessels. | ($2,097,950) | R | ($2,097,950) | R |
| **24 Ferry Division - Tolling**<br>Raises tolling on some existing routes and adds tolls to remaining routes. Revenues will increase by $2,500,000 in FY 2011-12 and by $5,000,000 recurring in FY 2012-13. | ($2,500,000) | R | ($5,000,000) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **25 Ferry Division - Efficiencies**<br>Reduces funds through division-wide efficiencies. In order to meet the reduction, the Department is authorized to reduce ferry schedules if reductions cannot be met through efficiencies. | ($2,000,000) | R | ($2,000,000) | R |
| **26 Ferry Division - Eliminate Vacant Positions**<br>Eliminates 23 vacant positions that are determined to be non-critical positions. This includes one position associated with the closure of the Morehead City Office. | ($1,115,490)<br>-23.00 | R | ($1,115,490)<br>-23.00 | R |
| **27 Ferry Division - Close Morehead City Field Office**<br>Closes the Morehead City Office on Feb. 1, 2012, eliminating four (4) permanent employees and six (6) temporary employees that are responsible for the ferry reservations line. The recurring reduction includes rent for the office. The ferry reservation line will be transferred outside of the Ferry Division so that call center functions may be merged across the Department in a manner selected by the Department to better coordinate communications. Funds transferred to the new call center to support ferry operations will come from existing funds within the ferry system budget for FY 2011-12. | ($186,189)<br>-4.00 | R | ($446,855)<br>-4.00 | R |
| **28 Ferry Division - Call Center**<br>Transfers funds to the new consolidated call center in FY 2012-13 to support the cost of the ferry reservations line. It is anticipated the call center will be staffed by contracted employees, not State employees. Reservation line costs are anticipated to grow once the additional ferry routes become tolled. | | | $109,209 | R |
| **29 Ferry Division - Replace Dredge Carolina**<br>Replaces Dredge Carolina. The current dredge is over 40 years old and in need of replacement. The dredge is used to maintain channels and basins in order for the ferries to operate and keep navigable channels operational. | | | $10,000,000 | NR |
| **30 Public Transportation Division - Cuts**<br>Reduces all public transportation grant programs by six (6) percent. | ($5,792,654) | R | ($5,792,654) | R |
| **31 Public Transportation Division - Cuts**<br>Reduces funding to the Regional New Starts and Capital grant program. | ($20,750,267) | R | ($20,750,267) | R |
| **32 Public Transportation Division - Cuts**<br>Reduces the Highpoint Furniture Market grants from $1,200,000 to $1,000,000. | ($200,000) | R | ($200,000) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **33 Rail Division - Transparency**<br>Repeals G.S. 136-44.20(d) in order to bring transparency to the Rail Division budget. The funds associated are transferred from the Highway Trust Fund to the Highway Fund fund code 84210-7829 to pay for the Piedmont and Carolinian passenger rail operations. These funds are used to pay Amtrak for the cost to fully operate these trains, less fare receipts. | $5,000,000 | R | $5,000,000 | R |
| **34 Rail Division - Cuts**<br>Reduces funds to the Rail Division's operating budget. | ($800,000) | R | ($800,000) | R |
| **35 Rail Division - Grants to Short-Line Railroads**<br>Provides non-recurring funds to short-line railroads to fund rehabilitation projects that strengthen North Carolina's short-line infrastructure. Grants shall not exceed 50 percent of the nonfederal share and must be matched by equal or greater funding from the applicant. | $400,000 | NR | $400,000 | NR |
| **Maintenance** | | | | |
| **36 Internal Consolidations**<br>Decreases funds to Maintenance through internal consolidations and eliminations in the pre-construction and administrative areas, and through the elimination of management layers. Within the Highway Fund, of the 75 positions identified for elimination, 29 positions are vacant and can be eliminated on July 1, 2011. Of the 46 filled positions, 24 positions will be eliminated December 31, 2011. The remaining 22 positions will be eliminated July 1, 2012. Within the Highway Trust Fund, of the 15 positions identified for elimination, nine (9) positions are eliminated immediately, and the remaining six (6) filled positions are eliminated December 31, 2011. Receipts for the Trust Fund positions are reduced $1,339,149 in FY 2011-12 and $1,394,531 in FY 2012-13. | ($4,127,167)<br>-53.00 | R | ($5,913,401)<br>-75.00 | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **37 Privatize and Outsource Functions** | | | | |
| Transfers funds within the Maintenance budget to outsource and further privatize existing functions. These functions include the pre-construction work to increase the amount of work privatized in preliminary engineering and project designs. Some general services functions, such as janitorial work, will be outsourced. Within the Highway Fund, of the positions to be eliminated, 57 positions are vacant and will be eliminated on July 1, 2011. Of the remaining 137 filled positions, 110 will be eliminated on December 31, 2011 and the remaining 27 positions will be eliminated on July 1, 2012. No funds are associated with these position reductions because the funds will be shifted to the costs of outsourcing and privatizing these functions. Within the Highway Trust Fund, of the 16 positions to be eliminated, three (3) positions are vacant and will be eliminated on July 1, 2011. The remaining 13 filled positions will be eliminated on July 1, 2012. No funds are associated with these position reductions because the funds will be shifted to the costs of outsourcing and privatizing these functions. | -167.00 | | -194.00 | |
| **38 Primary System** | | | | |
| Reduces funding to the primary system in order to have greater flexibility to use funds across the State-maintained road network by shifting funds to contract resurfacing, system preservation, and to the general maintenance reserve. The total budget is $184,459,157 in both years of the biennium. | ($20,000,000) | NR | ($20,000,000) | NR |
| **39 Secondary System** | | | | |
| Reduces funding to the secondary system in order to have greater flexibility to use funds across the State-maintained road network by shifting funds to contract resurfacing, system preservation, and to the general maintenance reserve. The total budget is $267,356,761 in both years of the biennium. | ($30,000,000) | NR | ($30,000,000) | NR |
| **40 Contract Resurfacing** | | | | |
| Increases funds for Contract Resurfacing. The contract resurfacing program provides funding for resurfacing the paved road system to improve ride quality. Contract resurfacing avoids costly patching and frequent maintenance. The total budget is $415,587,668 in FY 2011-12 and $429,805,388 in FY 2012-13.<br><br>Notwithstands statutory allocations to visitor centers (G.S. 20-79.7(c)(2)) in FY 2012-13 and budgets $600,000 in Special Registration Plate Account receipts for contract resurfacing. | $141,062,005 | NR | $155,279,725 | NR |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **41 System Preservation** | | | | |
| Increases funds for System Preservation in order to make improvements on structurally deficient bridges. 81.1 percent of structurally deficient bridges are located on the secondary road system. The total budget is $223,109,406 in FY 2011-12 and $237,417,127 in FY 2012-13.<br><br>Notwithstands statutory allocations to visitor centers (G.S. 20-79.7(c)(2)) in FY 2012-13 and budgets $600,000 in Special Registration Plate Account receipts for system preservation. | $144,520,335 | NR | $158,828,056 | NR |
| **42 General Maintenance Reserve** | | | | |
| Increases funds for the General Maintenance Reserve in order for the Department to have greater flexibility in programming funds to target the most critical maintenance needs. The total budget is $116,030,243 in FY 2011-12 and $140,636,243 in FY 2012-13. | $78,229,931 | NR | $102,835,931 | NR |
| **Repairs and Renovations** | | | | |
| **43 Funds for Facility Improvements and Repairs** | | | | |
| Provides funds for the Department to address critical life safety repairs, renovations, and replacement of its field facilities. Projects to be funded are critical to the success of the Department to effectively deliver its statutorily mandated programs and services. $250,000 non-recurring in receipts are used in FY 2011-12. | $15,250,000 | NR | $15,000,000 | NR |
| **Reserves** | | | | |
| **44 Reserve for Continuation Reviews** | | | $48,113,947 | R |
| Establishes a reserve for Highway Fund support of the driver licensing program within the Division of Motor Vehicles and operating grants to visitor centers, per directed Continuation Reviews. | | | | |
| **45 Reserve for Global TransPark Authority** | ($128,000) | R | ($128,000) | R |
| Reduces funding for the Global TransPark Authority (fund code 84210-0869) by ten (10) percent. Highway Fund appropriations for the Authority total $1,152,000 recurring. | | | | |
| **46 State Retirement System Contributions** | $13,300,000 | R | $18,200,000 | R |
| Increases the State's contribution to the Teachers' and State Employees' Retirement System for the 2011-2013 biennium to fund the Annual Required Contribution. | | | | |
| **47 Salary Adjustment and Performance Pay Reserve** | | | $13,300,000 | R |
| Provides funding for labor market and equity salary increases and funding for performance based pay plans to effectuate recommendations made in connection with the comprehensive review and reform of public employee compensation plans. | | | | |
| **48 State Health Plan** | $332,245 | R | $4,767,052 | R |
| Provides additional funding to continue health benefit coverage for enrolled active and retired employees supported by the Highway Fund for the 2011-2013 biennium. | | | | |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **49 Severance Expenditure Reserve**<br>Provides funding for severance salary continuation payments and health benefit coverage under the State Health Plan for employees reduced-in-force. Additional receipts for positions funded from the Highway Trust Fund total $149,083 in FY 2011-12 and $323,012 in FY 2012-13. | $2,552,553 | NR | $626,316 | NR |
| **50 Reserve for Visitor Centers**<br>Eliminates Highway Fund appropriations to the Reserve for Visitor Centers (fund code 84210-0882). Budgets $400,000 of additional title fee receipts, per transfer from the Highway Trust Fund, to offset reductions for visitor center operating grants in FY 2011-12. Total grant funding remains $400,000 for FY 2011-12.<br><br>Per a Continuation Review of visitor center grants, funding will be re-examined for FY 2012-13. | ($400,000) | R | ($400,000) | R |
| **Statutory Adjustments** | | | | |
| **51 Aid to Municipalities**<br>Adjusts funding for Aid to Municipalities based on revised projections for motor fuels tax consumption in accordance with G.S. 136-41.1. The total budget is $89,373,921 in FY 2011-12 and $90,187,224 in FY 2012-13. | | | $1,707,042 | NR |
| **Transfers** | | | | |
| **52 Department of Agriculture - Standards Division**<br>Eliminates funds for three (3) vacant positions for a total position cost of $146,561, one (1) filled position (Chemical Tech II) for a total position cost of $58,101, and shifts funds for another position from Highway Fund receipts to other receipts within the Department of Agriculture budget (total $57,039). Reduces operating budget for equipment and supplies by $187. | ($261,888) | R | ($261,888) | R |
| **53 Department of Revenue - Motor Fuels Division**<br>Eliminates funds for 15 vacant positions for a total personnel cost savings of $785,704, reduces the "other information technology services" budget by $207,346, and reduces the travel budget by $31,494. | ($1,024,544) | R | ($1,024,544) | R |
| **54 DENR Lust Trust Fund**<br>Eliminates funding for the Leaking Underground Storage Tank (LUST) program through G.S. 119-18(b). The larger transfer to LUST from motor fuels taxes through G.S. 105-449.125, which totaled $17.7 million in FY 2009-10, is not impacted. | ($2,171,898) | R | ($2,261,898) | R |
| **55 Department of Health and Human Services - Chemical Testing Unit**<br>Shifts a portion of funds for position number 60039654 from Highway Fund receipts to other receipts within the Department of Health and Human Services budget, and reduces funding for purchased services by $6,280. | ($28,867) | R | ($28,867) | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **56 Department of Public Instruction - Driver Education Program**<br>Adjusts funding for the Driver Education Program per revised average daily membership projections for the 2011-2013 biennium. | ($133,468) | NR | $194,415 | NR |
| **57 State Highway Patrol - Freeze Step Increases**<br>Continues the freeze on salary step increases (five percent) for sworn members of the State Highway Patrol for the 2011-2013 biennium. | ($3,373,932) | NR | ($3,373,932) | NR |
| **58 State Highway Patrol - Management Flexibility Reserve**<br>Establishes a management flexibility reserve for the State Highway Patrol. | ($5,589,592) | R | ($8,722,892) | R |
| **59 State Highway Patrol - Administrative Consolidations**<br>Eliminates the Administrative Services Section and other administrative units within the State Highway Patrol, and reduces human resources staffing as follows:<br>- Crime Control & Public Safety Deputy Director: $108,676 (1 FTE)<br>- General Counsel Office: $176,752 (2 FTE)<br>- Public Information/Recruiting: $267,796 (3 FTE)<br>- Administrative Services Section Management: $119,372 (1 FTE)<br>- Assessment Office: $205,123 (3 FTE)<br>- Benefits/Personnel and Performance/Promotion: $502,651 (6 FTE)<br>$592,627 is budgeted on a non-recurring basis in FY 2011-12 for projected severance payments. | ($1,380,370)<br>$592,627 | R<br>NR | ($1,380,370) | R |
| **60 State Highway Patrol - Reduce Operating Funds**<br>Reduces funding for purchased services, equipment, and supplies. | ($1,450,000) | R | ($1,450,000) | R |
| **61 State Highway Patrol - Eliminate Highway Fund Transfer**<br>Eliminates Highway Fund appropriations (fund codes 84210-0866 and 84210-1010) for transfer to the Department of Crime Control and Public Safety (budget code 24960) for State Highway Patrol operations. Equivalent transfers to the General Fund offset this reduction. The Department of Transportation shall continue to administer and transfer matching funds for Motor Carrier Safety Assistance Program grants budgeted within fund code 84210-7834 for the State Highway Patrol. | ($193,585,434) | R | ($189,859,507) | R |
| **62 Transfer to General Fund**<br>Transfers funds to the General Fund per the directed certification of the State Highway Patrol budget under a Department of Crime Control and Public Safety fund code within the General Fund. | $193,585,434 | R | $189,859,507 | R |

| Senate Subcommittee on Transportation | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| Total Legislative Changes | ($98,317,094) | R | ($34,746,384) | R |
| | $341,165,120 | NR | $356,497,553 | NR |
| **Total Position Changes** | -341.50 | | -392.50 | |
| **Revised Budget** | **$2,049,200,000** | | **$2,134,160,000** | |

# Highway Trust Fund

| | HIGHWAY TRUST FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$933,800,000** | | **$982,400,000** | |
| **Legislative Changes** | | | | |
| **Administration** | | | | |
| **63 Administration**<br>Appropriates $25,000,000 of the accumulated unencumbered fund balance within the Highway Trust Fund Administration budget to Urban Loops. | | | | |
| **Aid to Municipalities** | | | | |
| **64 Statutory Adjustment to Aid to Municipalities Allocation**<br>Increases funds for State Aid to Municipalities for FY 2011-12 and FY 2012-13, consistent with new revenue estimates and G.S. 136-176(b)(3). The total budget is $51,216,036 in FY 2011-12 and $54,043,432 in FY 2012-13. | $6,365,050 | NR | $6,371,287 | NR |
| **Construction** | | | | |
| **65 Intrastate System**<br>Increases funds for the Intrastate System for FY 2011-12 and FY 2012-13, consistent with new revenue estimates and G.S. 136-176(b)(1). The total budget is $460,823,529 in FY 2011-12 and $487,503,034 in FY 2012-13. | $60,663,823 | NR | $60,723,266 | NR |
| **66 Secondary Roads**<br>Notwithstands G.S. 136-176(b)(4) and reduces funding to Secondary Roads. The total budget is $36,155,667 in FY 2011-12 and $41,820,944 in FY 2012-13. | ($25,000,000) | NR | ($25,000,000) | NR |
| **67 Urban Loops** | $35,000,000 | R | $35,000,000 | R |
| Increases funds for Urban Loops for FY 2011-12 and FY 2012-13, consistent with new revenue estimates and G.S. 136-176(b)(2). Also budgets $35,000,000 of recurring funds and $20,000,000 of non-recurring funds that are reallocated from the Garden Parkway project. Non-recurring increases also include $25,000,000 of unencumbered administrative funds from prior years and $25,000,000 in funds reallocated from secondary road construction. | $108,631,127 | NR | $61,350,039 | NR |
| The total Urban Loops budget is $275,761,364 in FY 2011-12 and $237,407,986 in FY 2012-13. | | | | |

| Senate Subcommittee on Transportation | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **68 Mobility Fund**<br>Budgets title fee revenues per a reduction in the amount statutorily transferred to the Mercury Switch Removal Account (budget code 24300-2119) in the Department of Environment and Natural Resources, per G.S. 20-85(a1). $550,000 of projected title fee revenues are budgeted for FY 2011-12 and $950,000 of projected revenues are budgeted for FY 2012-13.<br><br>Budgets $9,776,358 in FY 2011-12 and $15,000,000 in FY 2012-13 per reallocation of funds from the Mid-Currituck Bridge project.<br><br>The total Mobility Fund budget is $41,326,358 in FY 2011-12 and $60,950,000 in FY 2012-13. | $10,326,358 | R | $15,950,000 | R |
| **Transfers** | | | | |
| **69 Transfer to Highway Fund - Reserve for Visitor Centers**<br>Appropriates $400,000 for transfer to the Highway Fund Reserve for Visitor Centers for operating grants to nine visitor centers in FY 2011-12.<br><br>Highway Trust Fund revenues are projected to increase by $950,000 recurring per a reduction in the amount of title fee receipts transferred to the Mercury Switch Removal Account (budget code 24300-2119) in the Department of Environment and Natural Resources. Of these revenues, $400,000 is appropriated to the Highway Fund Reserve for Visitor Centers in FY 2011-12. The remaining balance is appropriated to the Mobility Fund. | $400,000 | NR | | |
| **70 Transfer to General Fund**<br>Increases transfer to the General Fund by $35,223,642 in FY 2011-12 to purchase replacement school buses for local school systems, and by $115,408 in FY 2012-13 in accordance with G.S. 105-187.9(b)2. The total transfer is $76,720,918 in FY 2011-12 and $27,595,861 in FY 2012-13. | $35,223,642 | NR | $115,408 | R |
| **Turnpike Authority** | | | | |
| **71 Mid-Currituck Bridge Project**<br>Eliminates recurring gap funding for debt service and related financing costs associated with the Mid-Currituck Bridge project. Reallocates $30,000,000 of unencumbered gap funds appropriated in FY 2009-10 and FY 2010-11, as well as $5,223,642 of FY 2011-12 funds to the General Fund to purchase replacement school buses for local school systems. The remaining recurring funds are appropriated to the Mobility Fund. | ($15,000,000) | R | ($15,000,000) | R |
| **72 Garden Parkway Project**<br>Eliminates recurring gap funding for debt service and related financing costs for the Garden Parkway project. Reallocates $20,000,000 of unencumbered gap funds appropriated in FY 2010-11 for the project to Urban Loops. | ($35,000,000) | R | ($35,000,000) | R |

| Senate Subcommittee on Transportation | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| Total Legislative Changes | ($4,673,642) | R | $1,065,408 | R |
| | $186,283,642 | NR | $103,444,592 | NR |
| **Total Position Changes** | | | | |
| **Revised Budget** | $1,115,410,000 | | $1,086,910,000 | |

# Transportation

| | SPECIAL REGISTRATION PLATE ACCOUNT | |
|---|---|---|
| | FY 11-12 | FY 12-13 |
| **Recommended Continuation Budget** | **$5,076,095** | **$5,076,095** |
| **Legislative Changes** | | |
| **Special Registration Plate Account** | | |
| **73 Visitor Center Operating Grants** | | |
| Eliminates $1.2 million of Special Registration Plate Account funds allocated for operating assistance to 12 visitor centers in FY 2012-13. The Department of Transportation is directed to privatize the operations of the State-supported visitor centers by FY 2012-13. Equivalent funds are transferred from the Special Registration Plate Account to the Highway Fund for contract resurfacing and system preservation. | | |
| Total Legislative Changes | | |
| **Total Position Changes** | | |
| **Revised Budget** | **$5,076,095** | **$5,076,095** |

# Turnpike Authority

| | TURNPIKE AUTHORITY | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | **$4,442,571** | | **$4,442,571** | |
| **Legislative Changes** | | | | |
| **North Carolina Turnpike Authority Administration** | | | | |
| **74 Reduce Operating Funds**<br>Reduces operating funds for administration of the North Carolina Turnpike Authority by 18 percent. The total budget for Turnpike Authority administration is $3,642,571 for the 2011-2013 biennium. | ($800,000) | R | ($800,000) | R |
| Total Legislative Changes | **($800,000)** | **R** | **($800,000)** | **R** |
| **Total Position Changes** | | | | |
| **Revised Budget** | **$3,642,571** | | **$3,642,571** | |

# RESERVES/ DEBT SERVICE/ ADJUSTMENTS Section L

# Statewide Reserves

| | GENERAL FUND | | | |
|---|---|---|---|---|
| | FY 11-12 | | FY 12-13 | |
| **Recommended Continuation Budget** | $747,761,563 | | $747,761,563 | |
| **Legislative Changes** | | | | |
| **A. Employee Benefits** | | | | |
| **1 Severance Expenditure Reserve**<br>Provides funding for severance salary continuation payments and health benefit coverage under the State Health Plan for employees reduced-in-force. | $75,000,000 | NR | | |
| **2 Comprehensive Review of Public Employee Compensation Plans**<br>Provides funding for a comprehensive review of public employee compensation plans as directed by this Act. | $2,000,000 | NR | | |
| **3 Salary Adjustment and Performance Pay Reserve**<br>Provides funding for labor market and equity salary increases and funding for performance based pay plans to effectuate recommendations made in connection with the comprehensive review and reform of public employee compensation plans. | | | $328,000,000 | R |
| **4 State Retirement System Contributions**<br>Increases the State's contribution to the Teachers' and State Employees' Retirement System for the 2011-2013 biennium to fund the Annual Required Contribution. | $297,400,000 | R | $404,200,000 | R |
| **5 Judicial Retirement System Contributions**<br>Increases the State's contribution to the Consolidated Judicial Retirement System for the 2011-2013 biennium to fund the Annual Required Contribution. | $7,900,000 | R | $9,000,000 | R |
| **6 Firemen's and Rescue Squad Workers' Pension Fund Contributions**<br>Increases contributions to the Firemen's and Rescue Squad Workers' Pension Fund for the 2011-2013 biennium to fund the Annual Required Contribution. | $5,800,000 | R | $6,900,000 | R |
| **7 National Guard Pension Fund Contributions**<br>Increases the contributions to the National Guard Pension Fund for the 2011-2013 biennium to fund the Annual Required Contribution. | $263,000 | R | $523,000 | R |
| **8 State Health Plan**<br>Provides additional funding to continue health benefit coverage for enrolled active and retired employees supported by the General Fund for the FY 2011-13 biennium. | $7,119,541 | R | $102,151,104 | R |

| | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| **B. Other Reserves** | | | | |
| **9 Job Development Incentive Grants Reserve**<br>Reduces the funding for Job Development Investment Grants to amount needed to meet projected needs for FY 2011-12 grant payments. | ($12,000,000) | NR | | |
| **10 Reserve for Controller Support for Automated Fraud Detection**<br>Provides funding to support the planning, development, and implementation of an automated fraud detection system by the Office of the State Controller. | $500,000 | NR | $500,000 | NR |
| **11 Reserve for Automated Fraud Detection Development**<br>Provides funding to the Office of the State Controller to engage the services of a qualified vendor to plan, develop, and implement an enterprise-level, automated fraud detection system. | $1,000,000 | NR | $7,000,000 | NR |
| **12 Information Technology Fund**<br>Eliminates funds for five positions from the IT Fund and adds two positions for the Criminal Justice Information Network. Provides funding for enterprise-level information technology operation and projects. Shifts enterprise identity management, plus email consolidation, information technology procurement, and archiving to agency fees. Begins process of shifting responsibility for enterprise agreements to participating agencies. | ($1,537,574)<br>($1,844,284)<br>-3.00 | R<br>NR | $162,426<br>($1,844,284)<br>-3.00 | R<br>NR |
| **13 Continuation/Justification Review Reserve**<br>Creates a reserve to reinstate budgets of programs being reviewed by the General Assembly's Fiscal Research Division (Justification Reviews) or state agencies (Continuation Reviews). The FY 2012-13 budgets for programs under review have been eliminated. The General Assembly in the 2012 Session will determine whether to restore funding based on the results of these reviews. | | | $22,982,380 | NR |
| **C. Debt Service** | | | | |
| **14 Adjust Debt Service Payments**<br>Adjusts debt service appropriations based on updated cash flow requirements. | ($9,567,995) | R | $76,853,698 | R |
| **15 Adjust Debt Service - Canceled Projects**<br>Adjusts debt service appropriations due to the cancellation of projects in SB 464 (Debt Reduction Act of 2011). | ($7,380,000) | R | ($22,773,907) | R |

| Senate Committee on Appropriations/Base Budget | FY 11-12 | | FY 12-13 | |
|---|---|---|---|---|
| Total Legislative Changes | $299,996,972 | R | $905,016,321 | R |
| | $64,655,716 | NR | $28,638,096 | NR |
| **Total Position Changes** | -3.00 | | -3.00 | |
| **Revised Budget** | **$1,112,414,251** | | **$1,681,415,980** | |

# State Health Plan (Administration)

Budget Code: 28410

| | FY 2011-12 | FY 2012-13 |
|---|---|---|
| Beginning Unreserved Fund Balance | $0 | $0 |
| Recommended Budget | | |
| Requirements | $191,734,088 | $191,734,088 |
| Receipts | $191,734,088 | $191,734,088 |
| Positions | 42.00 | 42.00 |

Legislative Changes

Requirements:

| | | | | |
|---|---|---|---|---|
| **Medical Benefits/Claims Processing Contract** | ($1,311,263) | R | $3,622,105 | R |
| Adjust budgeted amounts for the PPO Administrative Services Agreement based on anticipated contractual costs, changes in plan membership and on-going administrative services. | $0 | NR | $0 | NR |
| | 0.00 | | 0.00 | |
| **Pharmacy Benefits Management Contract** | ($146,568) | R | ($3,335,958) | R |
| Reduce budgeted amount for PPO PBM Contract based on anticipated contractual costs, changes in plan membership and on-going pharmacy benefit and utilization management programs. | $0 | NR | $0 | NR |
| | 0.00 | | 0.00 | |
| **Disease & Case Management Contracts** | ($6,037,580) | R | ($5,284,198) | R |
| Reduce budgeted amount for Population Health Management Services contracts based on anticipated contractual costs, changes in plan membership and on-going disease and case management services. | $0 | NR | $0 | NR |
| | 0.00 | | 0.00 | |
| **Wellness Initiatives and Programs** | ($3,130,234) | R | ($3,119,350) | R |
| Reduce budgeted amount for Wellness Initiatives contracts based on anticipated contractual costs, changes in plan membership and on-going wellness programs. | $0 | NR | $0 | NR |
| | 0.00 | | 0.00 | |
| **Other Administrative Cost** | ($644,294) | R | ($12,544) | R |
| Reduce budgeted amounts for the Plan's other administrative costs to more accurately reflect anticipated expenditures. | $0 | NR | $0 | NR |
| | 0.00 | | 0.00 | |

| | FY 2011-12 | | FY 2012-13 | |
|---|---|---|---|---|
| Subtotal Legislative Changes | **($11,269,939)** | R | **($8,129,945)** | R |
| | **$0** | NR | **$0** | NR |
| | 0.00 | | 0.00 | |
| Receipts: | | | | |
| **Reduce Transfers from Trust Funds** | ($11,269,939) | R | ($8,129,945) | R |
| Reduces the amount of transfer from the Plan's health benefit trust fund budget codes to support administrative costs authorized for the FY 2011-13 biennium. | $0 | NR | $0 | NR |
| Subtotal Legislative Changes | **($11,269,939)** | R | **($8,129,945)** | R |
| | **$0** | NR | **$0** | NR |
| **Revised Total Requirements** | **$180,464,149** | | **$183,604,143** | |
| **Revised Total Receipts** | **$180,464,149** | | **$183,604,143** | |
| **Change in Fund Balance** | **$0** | | **$0** | |
| **Total Positions** | **42.00** | | **42.00** | |
| **Unappropriated Balance Remaining** | **$0** | | **$0** | |

# CAPITAL
# Section M

# Capital

| | GENERAL FUND | |
|---|---|---|
| | FY 11-12 | FY 12-13 |
| **Department of Environment and Natural Resources** | | |
| **1 Water Resources Development Projects** | | |
| Provides funds for the State's share of Water Resources Development Projects. Funds will provide a State match for $20,749,000 in federal funds. Projects are specified in a special provision. | $4,535,000 NR | |
| **Total Appropriation to Capital** | **$4,535,000 NR** | |

# INFORMATION TECHNOLOGY SERVICES

## Section N

# Information Technology Fund

Budget Code: 24467

| | FY 2011-12 | FY 2012-13 |
|---|---|---|
| **Beginning Unreserved Fund Balance** | **$792,000** | **$0** |
| **Recommended Budget** | | |
| Requirements | **$5,685,609** | **$7,485,609** |
| Receipts | **$4,458,142** | **$6,158,142** |
| Positions | **35.00** | **35.00** |

**Legislative Changes**

**Requirements:**

| | | | | |
|---|---|---|---|---|
| **Center for Geographic Information and Analysis**<br>Provides funding to support the operations of the Center for Geographic Information and Analysis (CGIA), located in the Office of the State Chief Information Officer. The CGIA is the lead agency for geographic information systems (GIS) services and GIS coordination for the State of North Carolina. CGIA provides GIS services to state and local governments as well as the private sector. Two positions are eliminated, 60036161 and 60036176, for a total savings of $140,653. | $599,347 | R | $599,347 | R |
| | $0 | NR | $0 | NR |
| | -2.00 | | -2.00 | |
| **Enterprise Security and Risk Management Office**<br>Provides funding to support the operation of the Enterprise Security and Risk Management Office (ESRMO) in the Office of the State Chief Information Officer. The ESRMO supports the development, delivery, and maintenance of an information security and risk management program that safeguards the state's information assets and the supporting infrastructure against unauthorized use, disclosure, modification, damage or loss. Reduces position cost with retirement and replacement, resulting in savings of $37,148. | $864,148 | R | $864,148 | R |
| | $0 | NR | $0 | NR |
| | 0.00 | | 0.00 | |

| | FY 2011-12 | | FY 2012-13 | |
|---|---|---|---|---|
| **Enterprise Project Management Office**<br>Provides funding to support the operation of the Enterprise Project Management Office (EPMO). The EPMO is responsible for coordinating and standardizing the management of IT projects over their life cycle, to include providing oversight during the design, development, and implementation process. Eliminates one position, 60087262, for a reduction of $121,715. | $1,473,285<br>$0<br>-1.00 | R<br>NR | $1,473,285<br>$0<br>-1.00 | R<br>NR |
| **Architecture and Engineering**<br>Provides funding to support the State Chief Information Officer's efforts to establish and maintain statewide information technology standards, and to design technical solutions for executive branch agencies, as well as local governments, public libraries, and K-20 organizations. | $581,986<br>$0<br>0.00 | R<br>NR | $581,986<br>$0<br>0.00 | R<br>NR |
| **Statewide Information Technology Procurement**<br>Allows the Statewide Information Technology Procurement Office to charge a fee to make up a $550,000 shortfall resulting from a reduction in supplemental staffing contracts. In the past, a 4.5% fee on information technology contracts has funded the Office. Reductions in supplemental staffing contracts have reduced the amount received from this fee. | ($550,000)<br>$0<br>0.00 | R<br>NR | ($550,000)<br>$0<br>0.00 | R<br>NR |
| **State Portal**<br>Eliminates appropriation for the State Portal. The State Portal was funded at $500,000 last year, but the Department of Administration is converting it to a fee-supported function. | ($500,000)<br>$0<br>0.00 | R<br>NR | ($500,000)<br>$0<br>0.00 | R<br>NR |
| **State Web Site**<br>Provides funding support to be used only for the State's current nc.gov website. | $0<br>$100,000<br>0.00 | R<br>NR | $0<br>$0<br>0.00 | R<br>NR |

| | FY 2011-12 | | FY 2012-13 | |
|---|---|---|---|---|
| **Information Technology Consolidation** | $776,440 | R | $784,440 | R |
| Provides funding for IT Consolidation to continue the State's efforts to consolidate information technology infrastructure within State agencies, coordinating the use of information technology infrastructure by focusing on the consolidation of local area network, voice, data center (servers), security, desktop, and service desk operations and services. Also begins the process of consolidating applications within the State. Eliminates two positions, 60087232 and 65000717, for a total savings of $218,201. | $0 | NR | $0 | NR |
| | -2.00 | | -2.00 | |
| **Data Integration License Transfer to Agencies** | $0 | R | $0 | R |
| Transfers, as required by S.L. 2010-31, funding for data integration licenses from the Office of the State Chief Information Officer to State agencies using the licenses. The State Chief Information Officer is required to complete this transfer by September 1 of each State fiscal year and to report to the General Assembly upon completion of the transfer. | $200,000 | NR | $1,200,000 | NR |
| | 0.00 | | 0.00 | |
| **Criminal Justice Information Network** | $166,422 | R | $166,422 | R |
| Provides funding to move two positions, 60084125 and 60084100, to the Office of the State Chief Information Officer from the Department of Crime Control and Public Safety. The Criminal Justice Information Network is responsible for providing the governmental and technical information systems necessary for accomplishing State and local governmental public safety and justice functions in the most efficient manner by appropriately and efficiently sharing criminal justice and juvenile justice information among law enforcement, judicial, and corrections agencies. | $0 | NR | $0 | NR |
| | 2.00 | | 2.00 | |
| **Transfer to OSC for E Forms Initiative** | $500,000 | R | $500,000 | R |
| Transfers $500,000 from the Office of the State Chief Information Officer to the Office of the State Controller to support the planning and development of an enterprise e forms and digital signatures initiative. | $0 | NR | $0 | NR |
| | 0.00 | | 0.00 | |

| | FY 2011-12 | | FY 2012-13 | |
|---|---|---|---|---|
| **Transfer IT Analyst Funding to OSBM** | $105,000 | R | $105,000 | R |
| Transfers funding from the Office of the State Chief Information Officer to the Office of State Budget and Management to be used only for the salary and benefits of an Information Technology Analyst for the Office of State Budget and Management. | $0 | NR | $0 | NR |
| | 0.00 | | 0.00 | |
| **Information Technology Fund Adjustment** | $0 | R | $0 | R |
| Reduces appropriations to reflect adjustments in General Fund expenditures and receipts, and the use of the Unreserved Fund Balance. | ($4,635,609) | NR | ($6,435,609) | NR |
| | 0.00 | | 0.00 | |
| **Subtotal Legislative Changes** | **$4,016,628** | R | **$4,024,628** | R |
| | **($4,335,609)** | NR | **($5,235,609)** | NR |
| | -3.00 | | -3.00 | |
| **Receipts:** | | | | |
| **Information Technology Fund Interest** | $25,000 | R | $25,000 | R |
| Accounts for the interest generated by the balance in the Information Technology Fund. | $0 | NR | $0 | NR |
| **ITS Overhead** | $91,486 | R | $91,486 | R |
| Reduces overhead billed to support the Office of Information Technology Services, based on rate reductions projected for the next State fiscal year. | $0 | NR | $0 | NR |
| **Subtotal Legislative Changes** | **$116,486** | R | **$116,486** | R |
| | **$0** | NR | **$0** | NR |
| Revised Total Requirements | **$5,366,628** | | **$6,274,628** | |
| Revised Total Receipts | **$4,574,628** | | **$6,274,628** | |
| **Change in Fund Balance** | **($792,000)** | | **$0** | |
| **Total Positions** | **32.00** | | **32.00** | |
| **Ending Unreserved Fund Balance** | **$0** | | **$0** | |

# Information Technology Internal Service Fund

Budget Code: 74660

| | FY 2011-12 | FY 2012-13 |
|---|---|---|
| **Beginning Unreserved Fund Balance** | **$32,445,864** | **$32,445,864** |
| **Recommended Budget** | | |
| Requirements | **$196,263,192** | **$196,263,192** |
| Receipts | **$196,263,192** | **$196,263,192** |
| Positions | **592.00** | **592.00** |

**Legislative Changes**

**Requirements:**

| | | |
|---|---|---|
| **Reduction to IT Internal Service Fund**<br>Requires the Office of the State Chief Information Officer and the Office of Information Technology Services to limit requirements for the Information Technology Internal Service Fund to $190,000,000 each State fiscal year, and eliminates 61 positions, to include position numbers 60087678, 60087377, 60087386, 60087436, 60089620, 60090531, 60087478, 60093461, 60087389, 60087453, 60087453, 60087464, 60087472, 60087488, 60087490, 60090526, 60087530, 60087624, 60087512, 60087606, 60087532, 60093453, 65000536, 60087605, 60089810, 60087652, 60087648, 60087520, 60087674, 65010102, 60087727, 60087553, 65005226, 65000702, 65010802, 65010803, 60089805, 60087580, 60087726, 60089804, 60087413, 60087440, 60087414, 60087322, 60093458, 60087227, 60087230, 60087234, 60087246, 60087314, 60087299, 60087286, 60087239, 60087710, 60089801, 60087445, 60089785, 65000706, 60087586, 60087533, 60087544. | $0 R<br>($6,263,192) NR<br>-61.00 | $0 R<br>($6,263,192) NR<br>-61.00 |
| **Subtotal Legislative Changes** | **$0** R<br>**($6,263,192)** NR<br>-61.00 | **$0** R<br>**($6,263,192)** NR<br>-61.00 |

**Receipts:**

Senate Report on Information Technology

| | FY 2011-12 | | FY 2012-13 | |
|---|---|---|---|---|
| **Receipts for Internal Service Fund** | $0 | R | $0 | R |
| Reduces receipts to Information Technology Internal Service Fund to reflect requirements. | ($6,263,192) | NR | ($6,263,192) | NR |
| **Subtotal Legislative Changes** | **$0** | R | **$0** | R |
| | **($6,263,192)** | NR | **($6,263,192)** | NR |
| Revised Total Requirements | **$190,000,000** | | **$190,000,000** | |
| Revised Total Receipts | **$190,000,000** | | **$190,000,000** | |
| **Change in Fund Balance** | **$0** | | **$0** | |
| **Total Positions** | **531.00** | | **531.00** | |
| **Ending Unreserved Fund Balance** | **$32,445,864** | | **$32,445,864** | |

# VISITOR REGISTRATION SHEET

Senate Appropriations on Education/Higher Education Tuesday, May 10, 2011
**Name of Committee** **Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Christopher Jones | OSBM |
| Lynn Hooper | EGM |
| Dawn Shepherd Pope | Office of the Governor |
| Eleanor Herndon | NCREAL |
| | |
| | |
| | |
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6

# VISITOR REGISTRATION SHEET

Senate Appropriations on Education/Higher Education Tuesday, May 10, 2011
**Name of Committee** **Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Kellie Slappey | JLF |
| Rob Thompson | Council for NC's Children |
| Jackson | DPI |
| M Hill | NC SBE |
| H. Hurtaff | N.C.B.A. |
| Mark Lanier | UNCW |
| Erin Schweitzer | UNC-CH |
| Kevin Howell | NCSU |
| Christopher Hill | NC Justice Center |
| Holly Safi | DRNC |
| Corye Dunn | DRNC |
| John Mercer | Policy Group |
| Linda Harris | CISNC |

# VISITOR REGISTRATION SHEET

Senate Appropriations on Education/Higher Education Tuesday, May 10, 2011
**Name of Committee** **Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Jennifer Mills | NCCS |
| Chip Killian | Nelson Mullins |
| Tony Boone | SEANC |
| Carolyn McKinney | NCPTSC |
| [illegible] | NCICU |
| Cheryl Pooser-Gabel | NC School Psych Assoc |
| [illegible] | TA NCNA-SN |
| Faye Wallace | OSBM |
| [illegible] | OSBM |
| Elizabeth [illegible] | OSBM |
| Bryan Conrad | OSBM |

# MINUTES
# SENATE APPROPRIATIONS
# SUBCOMMITTEE ON EDUCATION/HIGHER EDUCATION
## Senator Jerry Tillman, Co-Chairman, Presiding
## Wednesday, May 11, 2011

The Senate Appropriations Subcommittee on Education/Higher Education met in Room 421 of the Legislative Office Building on Wednesday, May 11, 2011, at 8:30a.m. The following Senators were present: Jean Preston, Co-Chair, Jerry Tillman, Co-Chair, Tom Apodaca, Co-Chair, Charlie S. Dannelly, Linda Garrou, Bob Rucho, and Dan Soucek. Members of the Education Fiscal Research Division (FRD) team were also present.

Sen. Tillman, The Chair called the meeting to order and recognized the Sergeant at Arms and Pages.

The Chair recognized Andrea Poole of the (FRD) to provide answers to questions from the previous meeting. Specifically, she handed out a sheet showing budget numbers from previous years. (See Attached) This was in regard to Sen. Soucek's request to see this comparison as some of the members were relating this year's budget to that of 2007.

The Chair recognized Kris Nordstrom of the (FRD) to discuss Special Provisions as related to the public schools portion of the budget. He went through the special provisions line by line with a brief explanation as needed.

The Chair opened the floor to discussion and questions from the members. Sen. Garrou asked about textbooks that have been ordered already. Sen. Tillman responded that school districts were asked to hold off on ordering and also have supplies in warehouses. There were other questions and comments from the members, notably Sen. Dannelly's concerns that teacher performance not be penalized due to the background of a student. The Chair said his concerns are noted.

The Chair recognized Andrea Poole of the (FRD) to discuss Special Provisions as related to the community colleges portion of the budget. He went through the special provisions line by line with a brief explanation as needed.

The Chair opened the floor to discussion and questions from the members. Sen. Garrou asked how cuts to equipment funding can keep pace with enrollment. The Chair recognized Jennifer Haygood from the NC Community College System who responded that funding is adequate as proposed, although there is a backlog.

The Chair then recognized Andrea Poole of the (FRD) to discuss Special Provisions as related to financial aid. There were no questions or comments.

The Chair then recognized Denise Harb of the (FRD) to discuss Special Provisions as related to the university system. She went through the special provisions line by line with a brief explanation as needed.

The Chair opened the floor for questions and comments. Sen. Garrou said that there may be additional funds available and encouraged the chairs to move that to appropriations. Sen. Tillman responded that the House has included a portion of that projected increase in collections. Sen. Apodaca indicated that the increase was not as large as was hoped for but is being factored in.

Sen. Garrou asked about aid to private universities. Sen. Tillman responded that that is being looked into.

Sen. Dannelly commented that he applauded the proposed reductions in paperwork, but is concerned that there is sufficient oversight.

The Chair then recognized Denise Harb of the (FRD) to discuss university funding in the budget. She noted that enrollment growth is fully funded in year one but not in year two.

The meeting adjourned at 9:50a.m.

Respectfully submitted,

Senator Jerry Tillman, Co-Chair

Mark Shiver, Committee Clerk

# Senate Appropriations Committee on Education/Higher Education

## Agenda

Wednesday, May 11, 2011, 8:30 A.M.

Room 421, Legislative Office Building
**Senator Jerry Tillman, Presiding**

**I. Welcome**
*Senator Tillman*

**II. Review of House Education Budget**
*Fiscal Research Division Staff*

**III. Adjourn**

# Senate Education Committee on Education/Higher Education Target Comparison

## Funding History

| | Education Total | Public Schools | NCCCS | UNC |
|---|---|---|---|---|
| **Appropriated Budget** | | | | |
| FY 2006-07 | 9,800,262,009 | 6,719,751,118 | 831,455,913 | 2,249,054,978 |
| FY 2007-08 | 11,278,806,746 | 7,714,429,569 | 938,106,160 | 2,626,271,017 |
| FY 2008-09 | 11,418,586,853 | 7,802,046,538 | 933,282,701 | 2,683,257,614 |
| FY 2009-10 [1] | 11,680,412,993 | 7,835,929,592 | 999,833,122 | 2,844,650,279 |
| FY 2010-11 [2] | 11,325,144,375 | 7,483,852,489 | 1,055,135,961 | 2,786,155,925 |
| **Base Budget** | | | | |
| FY 2011-12 | 11,913,511,629 | 7,923,543,951 | 1,102,475,214 | 2,887,492,464 |
| FY 2012-13 | 11,912,749,551 | 7,923,543,951 | 1,102,475,214 | 2,886,730,386 |
| **Governor's Proposed Budget** | | | | |
| FY 2011-12 | 11,247,178,269 | 7,572,712,912 | 1,016,629,522 | 2,657,835,835 |
| FY 2012-13 | 11,291,336,448 | 7,598,568,534 | 1,022,312,530 | 2,670,455,384 |
| **House Adopted Budget** (Excludes $65 million of More at Four Funding Transferred to DHHS) | | | | |
| FY 2011-12 | 10,661,397,700 | 7,229,503,708 | 991,518,860 | 2,440,375,132 |
| FY 2012-13 | 10,684,435,807 | 7,253,185,771 | 991,518,860 | 2,439,731,176 |
| **Senate Target** | | | | |
| FY 2011-12 | 10,621,511,629 | 7,123,543,951 | 970,475,214 | 2,527,492,464 |
| FY 2012-13 | 10,620,749,551 | 7,123,543,951 | 970,475,214 | 2,526,730,386 |

## Enrollment/Average Daily Membership (ADM) History

| | Public Schools Alloted ADM | NCCCS Budgeted FTE[3] | UNC[4] Fall Headcount |
|---|---|---|---|
| FY 2006-07 | 1,434,625 | 193,027 | 202,381 |
| FY 2007-08 | 1,461,740 | 195,375 | 209,059 |
| FY 2008-09 | 1,476,566 | 201,625 | 213,359 |
| FY 2009-10 | 1,464,914 | 216,472 | 219,537 |
| FY 2010-11 | 1,475,668 | 243,854 | 221,724 |
| FY 2011-12 | 1,480,991 | 251,935 | n/a |
| FY 2012-13 | 1,494,877 | 255,607 | n/a |

(1) The FY 2009-10 Appropriated Budget numbers include Federal ARRA funds designated to offset nonrecurring State cuts of $517,484,296 ($379,668,352 in Public Schools and $137,815,944 in UNC).

(2) The FY 2010-11 Appropriated Budget numbers include Federal ARRA funds designated to offset nonrecurring State cuts of $517,484,296 ($398,263,577 in Public Schools and $119,220,719 in UNC).

(3) Community College Budgeted Full-time Equivalent (FTE) for FY 2011-12 and FY 2012-13 are as funded by the House Budget, based on 2010-11 Spring Census data.

(4) UNC Fall Headcount for FYs 2009-2011 have been adjusted to remove iSchool Students for more appropriate comparison to other years. Fall Headcount is not the same measure as budgeted FTE.

# PAGES ATTENDING

COMMITTEE: Approps. Education ROOM: 421

DATE: 5-11 TIME: 8:30

**PLEASE PRINT LEGIBILY!!!!!!!!!!!!!**

| Page Name | Hometown | Sponsoring Senator |
|---|---|---|
| 1 Keona Phelps | Creswell | Stan, White |
| 2 | | |
| | | |
| 4 | | |
| 5 | | |
| 6 | | |
| 7 | | |
| 8 | | |
| 9 | | |
| 10 | | |

**Do not add names below the grid.**

**Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.**

# VISITOR REGISTRATION SHEET

Senate Appropriations on Education/Higher Education Committee May 11, 2011
**Name of Committee** **Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| [signature] | PSFofNC |
| [signature] | Ed Consultant |
| Meredith Henderson | NCCIU |
| Emily Doyle | NCPAPA |
| Katherine Joyce | NCASA |
| Joyce Wallace | OSBM |
| Elizabeth Grownstein | OSBM |
| [signature] | OSBM |
| Bryan Conrad | OSBM |
| Christopher Jones | OSBM |
| Lynn Hooper | EGH. |

# VISITOR REGISTRATION SHEET

Senate Appropriations on Education/Higher Education Committee May 11, 2011

**Name of Committee** **Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| W. Gardner Culpepper | DLC & Assoc. |
| Dawn Shepherd Pope | Office of the Governor |
| Evelyn Hawkins | BHOR |
| Linda Worrell | OSMC |
| Kellie Sloppy | JLF |
| Cheryl Posner-Gabell | NC School Psych Assoc |
| Susan Harris | NCSN TA |
| Matt Worrell | NCSBA |
| Carolyn McKinney | NCPTSC |
| Ann McColl | SBE |
| Jackson | DPI. |
| Jim Hartzog | Warren Assoc |

## VISITOR REGISTRATION SHEET

Senate Appropriations on Education/Higher Education Committee May 11, 2011
**Name of Committee** **Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Kevin Howell | NCSU |
| Ed Trulfer | Brooks Pierce |
| Margie Foreman | NCAE |
| Linda Parker | NCAE |
| Skyler Moore | Speaker's Office |
| Carye Dunn | DRNC |
| Mark Lanier | UNCW |
| Jennifer Willis | NCCCS |
| Jennifer Hungood | NCCCS |
| [illegible] | DPI |
| [illegible] | [illegible] |

## VISITOR REGISTRATION SHEET

Senate Appropriations on Education/Higher Education Committee May 11, 2011
**Name of Committee** **Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Pat Hartman | HTC |
| MH: [illegible] | SBE |
| Jami Allen | BEGINNINGS |
| John Merritt | Policy Group |
| Charles Perusse | UNC GA |
| Tony Boone | SEANC |
| Anita Watkins | UNC GA |
| Mike Turrentine | UNCG |
| Erin Schaeffer | UNC-CH |
| Lesley Cates | UNC GA |
| DAVID RICE | MANNING FULTON |

# VISITOR REGISTRATION SHEET

Senate Appropriations on Education/Higher Education Committee May 11, 2011
**Name of Committee** **Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| JAIME KING | NCEL |
| Dr. Eleanor Hanson | NCREAL Entrepreneurship |
| [signature] | NCICU |
| [signature] | DPAssoc |
| Byron Woodson | Independent Weekly |
| Christopher Hill | NC Justice Center |
| [signature] | EGH |
| Michael James | NCGA |
| Gene Causby | NCSCA |
| | |
| | |

# MINUTES
# SENATE APPROPRIATIONS
# SUBCOMMITTEE ON EDUCATION/HIGHER EDUCATION
## Senator Tom Apodaca, Co-Chairman, Presiding
## Tuesday, May 24, 2011

The Senate Appropriations Subcommittee on Education/Higher Education met in Room 421 of the Legislative Office Building on Tuesday, May 24, 2011, at 8:30a.m. The following Senators were present: Jean Preston, Co-Chair, Jerry Tillman, Co-Chair, Tom Apodaca, Co-Chair, Charlie S. Dannelly, Linda Garrou, Bob Rucho, and Dan Soucek. Members of the Education Fiscal Research Division (FRD) team were also present.

Sen. Apodaca, The Chair called the meeting to order. He indicated that no amendments would be offered in this meeting today, but rather in full Senate appropriations tomorrow. He referenced the handout, "Senate Appropriations Committee Rules for Considering Amendments." (see attached)

The Chair recognized Brian Matteson of the (FRD) to review public schools in the document, "Differences Between Senate PCS to House Bill 200 & House Bill 200." (See Attached) He went through the differences line by line with a brief explanation as needed.

The Chair opened the floor to discussion and questions from the members. Sen. Garrou lamented that there is no debate or destruction on "the destruction of public schools." Sen. Rucho replied that "we are living within our means and directing money to the classrooms." Sen. Tillman said, "if your definition of draconian is less that $200 per student than what the Governor proposed, then your definition needs work."

The Chair recognized Andrea Poole of the (FRD) to review community colleges in the document, "Differences Between Senate PCS to House Bill 200 & House Bill 200." (See Attached) She went through the differences line by line with a brief explanation as needed.

The Chair opened the floor to discussion and questions from the members. Sen. Stein, in the audience, expressed concern that the Senate budget funding for community colleges is less than the House's. Andrea Poole responded that the Senate PCS fully funds for enrollment growth.

The Chair recognized Denise Harb of the (FRD) to review the university system in the document, "Differences Between Senate PCS to House Bill 200 & House Bill

200." (See Attached) She went through the differences line by line with a brief explanation as needed. She pointed out #38 represents the biggest difference and is in the area of management flexibility.

The Chair opened the floor to discussion and questions from the members. Sen. Robinson, in the audience, asked about the rationale for #41, 2nd year funding being non-recurring. Sen. Tillman responded that most of the building is done but they need staff.

The Chair recognized Andrea Poole of the (FRD) to review differences in financial aid. She referred to the document, "Major Differences in Scholarship Funding Between Senate PCS to House Bill 200 & House Bill 200." (See Attached)

The Chair opened the floor for questions and comments. Sen. Garrou and Sen. Stein had questions which Andrea answered.

The Chair then recognized Kris Nordstrom of the (FRD) to discuss special provisions for public schools. He referenced Page 5 of the document, "Differences Between Senate PCS to House Bill 200 & House Bill 200." (See Attached)

The Chair opened the floor to discussion and questions from the members. Sen. Dannelly asked about responsibility for buses being moved to the LEAs. Sen. Tillman responded that the Senate formula helps them in the first year, and that diesel buses last a long time. Sen. Dannelly followed up asking if lower wealth counties have diesel buses. Kris Nordstrom said all districts should have comparable buses. Sen. Garrou and Sen. Stein also had questions and comments which were answered by Sen. Appodaca, Sen. Tillman, Kris Nordstrom, and LeAnne Winner of the NC School Boards Association.

The Chair recognized Andrea Poole of the (FRD) to discuss the special provisions for community colleges. She continued to reference the document, "Differences Between Senate PCS to House Bill 200 & House Bill 200." (See Attached)

The Chair opened the floor to discussion and questions from the members. There were a variety of questions asked by the members and answered by staff and Sen. Tillman and Sen. Appodaca.

The Chair recognized Denise Harb of the (FRD) to discuss the special provisions for the university system. She continued to reference the document, "Differences Between Senate PCS to House Bill 200 & House Bill 200." (See Attached) Sen.

Garrou wondered aloud about some of the flexibilities in the university system being helpful for community colleges, too.

The Chair recognized Andrea Poole of the (FRD) to discuss the special provisions related to financial aid. She continued to reference the document, "Differences Between Senate PCS to House Bill 200 & House Bill 200." (See Attached)

The Chair opened the floor to discussion and questions from the members. Sen. Dannelly asked if anyone has figured out how many students will fall through the cracks with changes to private school aid. Sen. Appodaca said that we do not feel we are at capacity and are working to help these children. He added that they may not be able to go to their school of choice, but that there are schools with available capacity.

The Chair opened the floor to closing comments from the members.

The Chair recognized the Sergeant at Arms and Pages and thanked the staff.

The meeting adjourned at 10:00a.m.

Respectfully submitted,

Senator Tom Appodaca, Co-Chair

Mark Shiver, Committee Clerk

# Senate Appropriations Committee on Education/Higher Education

## Agenda

Tuesday, May 24, 2011, 8:30 A.M.

Room 421, Legislative Office Building
**Senator Jerry Tillman, Presiding**

**I. Welcome**
*Senator Tillman*

**II. Review of PCS for House Bill 200 - The Appropriations Act of 2011**
*Fiscal Research Division Staff*

**III. Adjourn**

**Senate Appropriations Committee**

**Rules for Considering Amendments**

If amendments are offered, then the following rules must be met in order to make the amendment eligible for consideration:

1. Money can only be transferred among items within the same subcommittee section.

2. Amendments where money is being transferred among items within a subcommittee must clearly identify the items/programs that are being increased and decreased.

3. Nonrecurring reductions cannot be made to fund recurring additions.

4. Amendments that spend reversions are not allowed.

5. Amendments that increase spending in the subcommittee budgets are not allowed.

6. Amendments are not allowed where funding for an item comes from statewide reserves.

7. Since this is a meeting of Full Appropriations, amendments that address finance portions of the bill will not be heard.

8. Amendments must be in writing, the original signed, with 75 copies available for distribution.

9. To be considered, a proposed amendment must have been logged in by the committee clerk in room 643 by 11:00 a.m.

## Major Differences in Scholarship Funding Betwe enate PCS to House Bill 200 and House Bill 200

| | House Bill 200 | | Senate PCS to House Bill 200 | |
|---|---|---|---|---|
| | FY 2011-12 | FY 2012-13 | FY 2011-12 | FY 2012-13 |
| **Education Lottery Scholarship** | $0 | $0 | $30,448,000 | $30,448,000 |
| | Funding remains in place for aid in FY 2011-12, but not for aid in FY 2012-13 | | Scholarships funded for the biennium for UNC and community college students, but not private college students. | |
| **UNC Need-based Financial Aid** | | | | |
| General Fund | $46,279,237 | $47,856,237 | $48,891,429 | $79,606,867 |
| Escheats | $127,354,154 | $32,122,242 | $127,354,154 | $32,122,242 |
| Lottery | $42,497,363 | $42,497,363 | $10,746,733 | $10,746,733 |
| **Total** | **$216,130,754** | **$122,475,842** | **$186,992,316** | **$122,475,842** |
| *For 2011-12 Grants* | *$127,130,754* | | *$127,130,754* | |
| *Forward Funding* | *$89,000,000* | | *$59,861,562* | |
| **Private College Aid** | | | | |
| Legislative Tuition Grant | $52,442,713 | $52,442,713 | $50,985,971 | $0 |
| State Contractual Scholarship Fund | $41,307,267 | $41,307,267 | $40,159,842 | $0 |
| Other Private School Aid | $288,900 | $288,900 | $280,875 | $0 |
| Need-based Aid to Private College Students | Senate only | Senate only | $0 | $62,286,250 |
| **Total** | **$94,038,880** | **$94,038,880** | **$91,426,688** | **$62,286,250** |
| | 10% reduction to all programs in both years. | | 12.5% reduction to all programs in FY 2011-12. | |
| | | | All private school student programs replaced by new, need-based program in FY 2012-13. | |

Senate Appropriations Committee on Education/Higher Education

# Differences Between
# Senate PCS to House Bill 200
# and
# House Bill 200

Prepared by Fiscal Research Division

May 24, 2011

**Education**

**Differences Between Senate PCS to House Bill 200 and House Bill 200**

| | | Senate PCS to House Bill 200 | | | | House Bill 200 | | | | Comments: |
|---|---|---|---|---|---|---|---|---|---|---|
| | Item Description | FY 2011-12 | R/NR | FY 2012-13 | R/NR | FY 2011-12 | R/NR | FY 2012-13 | R/NR | |
| **Public Schools** | | | | | | | | | | |
| 1 | Children With Disabilities Headcount Adjustment | $ - | | $ - | | $ (7,000,000) | R | $ (7,000,000) | R | Actual CWD April headcount was higher than expected so reduction is no longer available. |
| 2 | LEA Adjustment | $ (4,365,359) | R | $ (65,292,506) | R | $ (42,123,478) | R | $ (105,696,322) | R | |
| 3 | Class Size Reduction in Grades 1-3 | $ 61,697,942 | R | $ 62,767,803 | R | $ - | | $ - | | Senate changes allotment ratio for grades 1-3 from 1:18 to 1:17; 1,124 positions added in FY 11-12 and 1,144 positions added in FY 12-13. |
| 4 | Teacher Assistants | $ (390,519,448) | R | $ (395,946,237) | R | $ (255,197,482) | R | $ (250,743,602) | R | Senate funds TAs on kindergarten headcount only. House funds on K-1 headcount. |
| 5 | Decouple Master's & NBPTS Salary Supplements | $ (4,776,560) | R | $ (4,776,560) | R | $ - | | $ - | | Senate changes salary supplement for teachers with both a master's and NBPTS from 23.2% to 22.0%. |
| 6 | Fund One LEA per County | $ (2,214,251) | R | $ (11,071,255) | R | $ - | | $ - | | Senate phases-out additional funding for city LEAs but does not compel these LEAs to consolidate. |
| 7 | Education Reform Studies | $ 200,000 | NR | $ - | | $ 1,000,000 | NR | $ - | | Provides funding to hire outside consultants to examine various education topics. Senate study is narrower in scope. |
| 8 | At-Risk Student Services | $ - | | $ - | | $ (30,215,891) | R | $ (30,374,711) | R | House reduces allotment by 12%. |
| 9 | Small County Supplemental Funding | $ (5,146,985) | R | $ (8,818,208) | R | $ - | | $ - | | Senate implements formula recommended by consultant study, reducing allotment by 12% in FY 11-12. |
| 10 | Textbooks | $ (13,000,000)<br>$ (79,166,861) | R<br>NR | $ (13,000,000)<br>$ (76,500,000) | R<br>NR | $ (13,000,000)<br>$ (79,621,968) | R<br>NR | $ (13,000,000)<br>$ (79,000,000) | R<br>NR | Senate and House differ slightly in size of NR cuts. |
| 11 | Instructional Supplies | $ - | | $ - | | $ (3,450,000)<br>$ (38,520,358) | R<br>NR | $ (3,450,000)<br>$ (38,417,147) | R<br>NR | House reduces funding by approx. 46%, leaving about $50 million each year for supplies and materials. |
| 12 | Academically or Intellectually Gifted | $ - | | $ - | | $ (6,480,111) | R | $ (6,559,558) | R | House reduces allotment by 9%. |
| 13 | Central Office Administration | $ (17,211,294) | R | $ (17,254,494) | R | $ (10,757,059) | R | $ (10,784,059) | R | Senate cut is 16%. House cut is 10%. |
| 14 | School Building Administration | $ (24,612,054) | R | $ (25,023,016) | R | $ (19,580,256) | R | $ (19,813,016) | R | Senate reduces funding for assistant principals 21% while House reduction is 17%. Principal positions are not reduced. |

## Education

## Differences Between Senate PCS to House Bill 200 and House Bill 200

| | | Senate PCS to House Bill 200 | | | | House Bill 200 | | | | Comments: |
|---|---|---|---|---|---|---|---|---|---|---|
| | Item Description | FY 2011-12 | R/NR | FY 2012-13 | R/NR | FY 2011-12 | R/NR | FY 2012-13 | R/NR | |
| 15 | School Building Administration Position Conversion | $ (7,700,000) | R | $ (7,700,000) | R | $ - | | $ - | | Changes policy regarding how LEAs are allowed to cash-out principal and asst. principal positions. Cash out at first step of salary schedule, rather than average salary. |
| 16 | Instructional Support | $ (22,934,278) | R | $ (23,149,479) | R | $ (18,126,313) | R | $ (18,591,725) | R | Senate reduces allotment by 5%. House reduces allotment by 4%. |
| 17 | Limited English Proficiency | $ - | | $ - | | $ (7,505,512) | R | $ (8,114,226) | R | House reduces funding by 10%. |
| 18 | Transportation | $ - | | $ - | | $ (20,680,229) | R | $ (20,884,532) | R | House reduces funding by 5%. |
| 19 | School Bus Replacement | | | $ (56,851,619)<br>$ 21,627,977 | R<br>NR | $ -<br>$ (20,000,000) | <br>NR | $ -<br>$ (20,000,000) | <br>NR | Senate shifts responsibility for school bus replacement to LEAs beginning in FY 12-13. House funds 700 of 1,587 buses slated for replacement in FY 11-12 and retains responsibility. |
| 20 | Uniform Education Reporting Systems (UERS) | $ (2,101,213) | R | $ (2,101,213) | R | $ (2,336,859) | R | $ (2,336,859) | R | Senate level reduces available fund balance while House reduces the balance and some DPI IT project operational funding. |
| 21 | Geographically Isolated Schools Allotment | $ (411,503) | R | $ (411,503) | R | $ - | | $ - | | Senate eliminates support for additional 7.5 teaching positions provided to one school district. |
| 22 | Teacher Cadet | $ (340,000) | R | $ (340,000) | R | $ (34,000) | R | $ (34,000) | R | Senate eliminates funding. House cuts by 10%. |
| 23 | Science Olympiad | $ (127,500) | R | $ (127,500) | R | $ (127,500)<br>$ 127,500 | R<br>NR | $ (127,500) | R | Senate eliminates funding. House provides NR funding in 11-12 and eliminates funding in 12-13. |
| 24 | Tarheel ChalleNGe Academy | $ - | | $ - | | $ (76,772) | R | $ (76,772) | R | House reduces recurring funds by 10%. |
| 25 | PTA Parental Involvement | $ - | | $ - | | $ 300,000 | NR | $ - | | House funds one year of additional support. |
| 26 | Teaching Fellows Fund | $ (210,000) | R | $ (3,475,000) | R | $ (210,000) | R | $ (210,000) | R | Both House and Senate reduces administrative set-aside from $810,000 to $600,000. Senate begins program phase-out in FY 12-13. |
| 27 | DPI Management Flexibility Reduction | $ - | | $ - | | $ (6,403,751) | R | $ (6,403,751) | R | House DPI administrative funding cuts are mostly contained in this flexible reduction. Senate makes series of targeted cuts to specific DPI offices. |
| 28 | DPI Curriculum Division | $ (457,690) | R | $ (457,690) | R | $ - | | $ - | | Senate eliminates 5.5 FTE. |
| 29 | DPI Technology Services | $ (2,712,988) | R | $ (2,712,988) | R | $ - | | $ - | | Senate eliminates 30.0 FTE. |

**Education**

**Differences Between Senate PCS to House Bill 200 and House Bill 200**

| | | Senate PCS to House Bill 200 | | | | | House Bill 200 | | | | Comments: |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | **Item Description** | **FY 2011-12** | **R/NR** | **FY 2012-13** | **R/NR** | | **FY 2011-12** | **R/NR** | **FY 2012-13** | **R/NR** | |
| 30 | DPI Communications | $ (246,586) | R | $ (246,586) | R | | $ - | | $ - | | Senate eliminates 4.0 FTE. |
| 31 | NC Professional Teaching Standards Commission Staff | $ (235,646) | R | $ (235,646) | R | | $ - | | $ - | | Senate eliminates 2.0 FTE that work for the Commission. |
| 32 | North Carolina Center for the Advancement of Teaching (NCCAT) | $ (6,102,495)<br>$ 500,000 | R<br>NR | $ (6,102,495) | R | | $ (5,102,495) | R | $ (5,102,495) | R | Senate completely eliminates NCCAT funding and provides $500K NR for upkeep costs while Cullowhee and Ocracoke sites are conveyed to other entities. House cut leaves $1m for continued operations. |
| 33 | Connectivity | $ (650,000) | R | $ (650,000) | R | | $ (794,675) | R | $ (794,675) | R | Both House and Senate eliminate $650k in set-asides for evaluation and e-Learning Portal. House cuts operations funding by $145k and Senate does not. |
| 34 | Residential Schools | $ (2,500,000) | R | $ (8,000,000) | R | | $ (1,554,181) | R | $ (1,554,181) | R | House cuts the three residential schools by 5%. Senate cuts the schools by 8% in FY 11-12 and directs the closure of one school in FY 12-13. |
| 35 | Residential Schools Superintendent | $ - | | $ - | | | $ (137,264) | R | $ (137,264) | R | House eliminates Superintendent position. This elimination is included in the Senate Residential Schools cut rather than as a stand-alone item. |
| | **Community Colleges** | | | | | | | | | | |
| 36 | Management Flexibility Reduction | $ (53,208,568) | R | $ (60,974,749) | R | | $ (44,095,124) | R | $ (51,761,305) | R | |
| 37 | Botanical Laboratory (Fayetteville Technical CC) | $ (264,000) | R | $ (264,000) | R | | $ (264,000)<br>$ 100,000 | R<br>NR | $ (264,000) | R | |
| | **University System** | | | | | | | | | | |
| 38 | Management Flexibility Reduction | $ (434,553,824) | R | $ (436,441,873) | R | | $ (478,083,473) | R | $ (479,609,147) | R | |
| 39 | UNC Hospitals Subsidy | $ (19,011,884) | NR | $ (19,011,884) | NR | | $ (44,011,882) | NR | $ (44,011,882) | NR | House eliminates the subsidy; Senate cut leaves $25 million. |
| 40 | Coastal Wave Energy Research | $ - | | $ - | | | $ (2,000,000) | R | $ (2,000,000) | R | |
| 41 | NC A&T/UNC-G Joint School of Nanoscience and Nanoengineering | $ 1,000,000 | NR | $ - | | | $ - | | $ - | | |

**Education**

**Differences Between Senate PCS to House Bill 200 and House Bill 200**

| | | Senate PCS to House Bill 200 | | | | | House Bill 200 | | | | Comments: |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Item Description | FY 2011-12 | R/NR | FY 2012-13 | R/NR | | FY 2011-12 | R/NR | FY 2012-13 | R/NR | |
| **Financial Aid** | | | | | | | | | | | |
| 42 | UNC Need-based Financial Aid | $ 37,891,429 | R | $ 68,608,867 | R | | $ 35,279,237 | R | $ 36,856,237 | R | Total funding for scholarships in each year is the same, although the proportion of Lottery, Escheats, and General Fund is different. Forward funding in Senate is $30 million lower. |
| 43 | Academic Common Market | $ - | | $ (970,747) | R | | $ - | | $ (1,215,000) | R | Technical change; revised based on updated budget information. |
| 44 | Nonresident Graduate Student Tuition Remissions | $ - | | $ - | | | $ (8,640,045) | R | $ (8,640,045) | R | |
| 45 | Nonresident Tuition Waivers | $ - | | $ - | | | $ (7,947,640) | R | $ (7,947,640) | R | |
| 46 | Legislative Tuition Grant | $ (7,283,710) | R | $ (58,269,681) | R | | $ (5,826,968) | R | $ (5,826,968) | R | Senate budget reduces existing aid to private college students by 12.5% in FY 2011-12, and creates a new, need-based program for private college students in FY 2012-13. |
| 47 | State Contractual Scholarship Fund | $ (5,737,121) | R | $ (45,896,963) | R | | $ (4,589,696) | R | $ (4,589,696) | R | |
| 48 | Other Private School Aid | $ (40,125) | R | $ (321,000) | R | | $ (32,100) | R | $ (32,100) | R | |
| 49 | Student Financial Aid for Students of Private Higher Education Institutions | $ - | | $ 62,286,250 | R | | $ - | | $ - | | |

## Education
## Differences Between Senate PCS to House Bill 200 and House Bill 200

| | Section Number | Special Provision Title | Major Differences Between Senate PCS to House Bill 200 and House Bill 200 |
|---|---|---|---|
| **Education-related General Provisions** | | | |
| 1 | 5.2 | Other Receipts From Pending Grant Awards | – Senate only.<br>– Allows DPI to expend certain federal and privately awarded grant funds.<br>– Appropriated funds do not place any additional obligations on the State. |
| 2 | 5.4 | Education Lottery | – Senate funds UNC and CC students in the Education Lottery Scholarship (scholarships for needy students). House provision does not fund this program.<br>– UNC Need-based Financial Aid receives less funding from Lottery Fund in Senate version.<br>– House allows use of capital funds for classroom teachers. Senate does not. |
| **Public Schools** | | | |
| 3 | 7.1 | Education Reform in North Carolina | – House studies a number of education topics across all levels of education.<br>– Senate study focuses only on 3rd grade literacy and ways to minimize remedial education at institutes of higher education. |
| 4 | 7.1A | Career and College Promise | – Senate only.<br>– Modified Governor's language, streamlining 3 pathways for high school students to access courses in higher education. |
| 5 | 7.1B | Class Size Reduction for Grades 1-3 | – Senate only.<br>– States General Assembly intent to reduce allotment ratio in grades 1-3 to 1 teacher for every 15 students as funds become available. |
| 6 | 7.2 | Funds for Children With Disabilities | – Boilerplate.<br>– Money changed in Senate provision to reflect updated headcount numbers that weren't available when House did budget. |
| 7 | 7.3 | Funds for Academically Gifted Children | – Boilerplate.<br>– Money changed to reflect House 9% cut, Senate no cut. |
| 8 | 7.11 | Textbooks | – House only.<br>– Prevents SBE from new textbook adoptions. |
| 9 | 7.12 | Small School System Supplemental Funding | – House uses boilerplate language.<br>– Senate introduces new formula recommended by 2010 School Funding Formula Study. |
| 10 | 7.13 | Elimination of Reporting Requirements | – House eliminates School Technology, Local Safe Schools, and At-Risk Expenditures reports.<br>– Senate eliminates School Technology, Local Safe Schools, At-Risk Expenditures, School Improvement Plans, Personal Education Plans, and cuts in half continuing education requirements for teacher licensure renewal. |
| 11 | 7.14 | Allotment of Principals | – Both House & Senate change policy for guaranteed principal positions, requiring newly established schools to have at least 100 students. Current policy is 100 students or 7 teachers.<br>– Senate provision also changes policy on cashing-out of principal and assistant principal positions to follow money. |

## Education
## Differences Between Senate PCS to House Bill 200 and House Bill 200

| | Section Number | Special Provision Title | Major Differences Between Senate PCS to House Bill 200 and House Bill 200 |
|---|---|---|---|
| 12 | 7.15 | Transfer of Federal Agricultural Education Funds | – House only.<br>– Transfers certain federal funds for career tech administration from DPI ($90k) and the CC system ($45k) over to FFA Program at NC State.<br>– Does not change existing responsibilities. |
| 13 | 7.16 | Geographically Isolated Schools | – House maintains allotment of extra 7.5 classroom teacher positions to Ocracoke School.<br>– Senate eliminates allotment. |
| 14 | 7.17 | School Calendar Pilot Program | – House allows Wilkes and Stanly school districts to operate shortened calendar that still meets hours of instruction requirements.<br>– Senate language adds Montgomery County to the pilot program. |
| 15 | 7.18 | Performance Pay Model Program | – House only.<br>– Senate moves language to Salaries & Benefits section of bill. |
| 16 | 7.21 | LEA Budgetary Flexibility | – Two technical changes.<br>– Senate does not mention teacher assistants as an example of a direct classroom service to protect.<br>– Senate removes House language stating that allotment ratios in grades K-3 would be unchanged since the Senate money changes the allotment ratio in grades 1-3. |
| 17 | 7.22 | North Carolina Virtual Public Schools | Technical change: Senate language clarifies which LEA allotments will be reduced to fund NCVPS administration costs and the NCVPS enrollment reserve. |
| 18 | 7.23 | Performance-Based Reductions in Force | –House directs the State Board to develop uniform rules requiring LEAs to consider performance when RIF-ing employees.<br>– Senate directs LEAs to develop their own RIF policies incorporating performance. |
| 19 | 7.25 | Residential Schools | – House prevents campus consolidation without GA authority.<br>– Senate directs consolidation of one of the three schools, to be chosen by DPI.<br>– Senate adds language so that teachers at residential schools will maintain career status upon transfer of schools to DPI.<br>– Both House and Senate have language regarding instructional schedule, flexibility to create principal positions, and designating one of the school directors to serve as superintendent. |
| 20 | 7.26 | Sixty-Five Percent of School Funding Must Be Used for Classroom Instruction | – House only.<br>– Requires 65% of LEA expenditures to be on classroom instruction. |
| 21 | 7.27 | Department of Public Instruction Receipts | – Senate only.<br>– Allows OSBM to modify certain budget lines for federal receipts that were erroneously budgeted in the wrong code. |
| 22 | 7.28 | School Bus Purchases | – Senate only.<br>– Funds available in 2011-12 can be used to purchase replacement buses and pay existing finance payments for past purchases, but cannot be used to enter into new financing agreements.<br>– Makes General Statute changes to place responsibility for school bus purchases on LEAs effective July 1, 2012. |

## Education
## Differences Between Senate PCS to House Bill 200 and House Bill 200

| | Section Number | Special Provision Title | Major Differences Between Senate PCS to House Bill 200 and House Bill 200 |
|---|---|---|---|
| 23 | 7.29 | Increase Number of Instructional Days | – Senate only.<br>– Increases number of instructional days by 5.<br>– Increases mandatory instructional hours from 1,000 to 1,025.<br>– Eliminates 5 protected teacher workdays. |
| 24 | 7.30 | Testing Program | – Senate only.<br>– S479 Language, expresses intent to establish certain national tests when funds become available. |
| 25 | 7.31 | Fund One LEA per County | – Senate only.<br>– Follows money to phase-in policy to fund one LEA per county.<br>– Base allotments to city LEAs would be reduced 20% in 2011-12, eliminated in 2012-13. |

**Community Colleges**

| | | | |
|---|---|---|---|
| 26 | 8.8 | Equipment Funding | Senate version deletes subsection 8.8(b), which sets aside $250,000 of equipment funding for the Stokes multi-campus site of Forsyth Technical Community College. |
| 27 | 8.11 | Management Flexibility Reduction/Community Colleges | House only. |
| 28 | 8.12 | Community College Tuition Waivers | Senate version makes clarifying changes suggested by the NCCCS. |
| 29 | 8.17 | Limitation on Community College Tuition | House only. |
| 30 | 8.18 | Exempt Community Colleges From APA | Senate only. |
| 31 | 8.19 | Capital Improvements at Community Colleges | Senate only. |
| 32 | 8.20 | Additional Flexibility With Regard to Community College Investments | Senate only. |

**University System**

| | | | |
|---|---|---|---|
| 33 | 9.6 | UNC Management Flexibility Reduction | – House version prohibits any reduction to the following, while Senate version allows up to a 15% reduction: 1) Hickory Metro Higher Education Center; 2) Joint Graduate School of Nanoscience and Nanoengineering at North Carolina A&T and UNC-G; and 3) the North Carolina Research Campus.<br><br>– House version has no restrictions for the following, while Senate version allows reductions of up to 15%: 1) University of North Carolina School of the Arts; 2) Agricultural Extension; and 3) North Carolina Judicial College of the UNC School of Government.<br><br>– House version limits reduction to 10% for Ag Research Stations; Senate version allows up to 15% reduction for any Agricultural Research.<br><br>– House has no restriction on the following, while the Senate version prohibits any reductions: Center for Turfgrass Environmental Research and Education. |

## Education
## Differences Between Senate PCS to House Bill 200 and House Bill 200

| | Section Number | Special Provision Title | Major Differences Between Senate PCS to House Bill 200 and House Bill 200 |
|---|---|---|---|
| 34 | 9.6A | Advisory Commission On Military Affairs/Modify Membership | – Senate only.<br>– Adds UNC president and NCCCS president to the Advisory Commission on Military Affairs. |
| 35 | 9.6B | Clarification/General Fund Appropriations Carried Forward By UNC Shall Not Be Used For Capital Improvements | – Senate only.<br>– Statutes allow UNC to carry forward up to 2.5% of budget for one-time purposes in the next year; this provision stipulates that those funds may not be used for capital. |
| 36 | 9.6C | Allow Chancellors of Constituent Institutions to Approve Certain Repair and Maintenance Projects and Fund Those With Available Operating Funds | – Senate only.<br>– Allows campuses to spend up to $1 million per project of operating dollars on capital projects (i.e., repairs, renovations, maintenance, and equipment purchases). |
| 37 | 9.6D | Authorize Board of Governors to Permit North Carolina State University to Self Perform Energy Conservation Measures and to Authorize Energy Savings Realized by North Carolina State University to Be Used As a Source of Repayment For Certain Debts | – Senate only.<br>– Removes NCSU from requirement that energy-saving projects be conducted by private companies who guarantee a set dollar amount of savings. |
| 38 | 9.6E | Amend Regulation of UNC Institutional Trust Funds and Funds of UNC Health Care System | – Senate only.<br>– Removes The University of North Carolina and the University of North Carolina Health Care System from requirement that funds must be invested with the State Treasurer. |
| 39 | 9.6F | UNC/Institutional Expenditure Benchmarks | – Senate only. |
| 40 | 9.6G | UNC Assume Responsibility For Quality Acceptance Inspection Process | – Senate only.<br>– Exempts UNC from Dept. of Administration policies designed to ensure the quality of goods purchased – specifically applies to chemicals, supplies, materials, and equipment. |
| 41 | 9.6H | NCSU May Sell Timber | Senate only. |
| 42 | 9.19 | Constituent Institutions May Purchase Motor Vehicles Independent of Motor Fleet Management | Senate only. |
| **Financial Aid** | | | |
| 43 | 9.9 | UNC Need-Based Financial Aid Program Funding Schedule | Modified to match Senate money. |
| 44 | 9.10 | Consolidate Assets of Millennium Teaching Scholarship Loan Program and Prospective Teachers Scholarship Loan Fund / Give Priority for Scholarship Loans for Prospective Teachers to Certain Former Teacher Assistants | Senate version includes a subsection (c) granting priority in applying to the Prospective Teachers Scholarship Loan program to former teacher assistants who lost their position as a result of a reduction in force. |
| 45 | 9.11 | Limit Certain Financial Aid Grants to the Traditional Time Period Required to Earn a Baccalaureate Degree | Modified to match Senate money. |
| 46 | 9.13 | Eliminate Certain UNC Tuition Waivers for Nonresident Students | House only. |
| 47 | 9.18 | Need-Based Scholarships For Students Attending Private Institutions of Higher Education | – Senate only.<br>– Creates new need-based financial aid program for private college students, beginning with 2012-13 academic year. |

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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# HOUSE BILL 200
**Committee Substitute Favorable 4/26/11**
**Committee Substitute #2 Favorable 4/28/11**
**Fourth Edition Engrossed 5/4/11**
**PROPOSED SENATE COMMITTEE SUBSTITUTE H200-PCS30341-LExf-13**

Short Title: Appropriations Act of 2011. (Public)

Sponsors:

Referred to:

March 2, 2011

A BILL TO BE ENTITLED

AN ACT TO SPUR THE CREATION OF PRIVATE SECTOR JOBS; REORGANIZE AND REFORM STATE GOVERNMENT; MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS AND INSTITUTIONS; AND TO ENACT BUDGET RELATED AMENDMENTS.

The General Assembly of North Carolina enacts:

## PART I. INTRODUCTION AND TITLE OF ACT

### TITLE

**SECTION 1.1.** This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2011."

### INTRODUCTION

**SECTION 1.2.** The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the State Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

## PART II. CURRENT OPERATIONS AND EXPANSION GENERAL FUND

### CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the fiscal biennium ending June 30, 2013, according to the following schedule:

| **Current Operations – General Fund** | **2011-2012** | **2012-2013** |
|---|---|---|
| **EDUCATION** | | |
| Community Colleges System Office | $ 982,305,416 | $ 982,305,416 |
| Department of Public Instruction | 7,226,755,942 | 7,191,532,300 |

| | | |
|---|---|---|
| University of North Carolina – Board of Governors | | |
| Appalachian State University | 145,615,228 | 145,732,585 |
| East Carolina University | | |
| Academic Affairs | 247,883,972 | 247,883,972 |
| Health Affairs | 65,196,439 | 65,196,439 |
| Elizabeth City State University | 38,394,847 | 38,567,166 |
| Fayetteville State University | 56,968,000 | 56,968,000 |
| NC A&T State University | 105,413,397 | 105,852,346 |
| NC Central University | 94,413,933 | 94,413,933 |
| NC State University | | |
| Academic Affairs | 434,600,291 | 434,714,473 |
| Agricultural Research | 59,239,461 | 59,239,461 |
| Agricultural Extension | 43,539,609 | 43,539,609 |
| UNC-Asheville | 41,984,728 | 41,984,728 |
| UNC-Chapel Hill | | |
| Academic Affairs | 309,582,768 | 312,944,304 |
| Health Affairs | 219,507,009 | 222,570,732 |
| AHEC | 49,747,851 | 49,747,851 |
| UNC-Charlotte | 216,916,678 | 217,932,821 |
| UNC-Greensboro | 173,205,364 | 173,205,364 |
| UNC-Pembroke | 61,700,446 | 62,443,695 |
| UNC-School of the Arts | 27,849,173 | 27,849,173 |
| UNC-Wilmington | 105,967,837 | 107,163,413 |
| Western Carolina University | 90,758,068 | 91,236,972 |
| Winston-Salem State University | 76,496,951 | 76,496,950 |
| General Administration | 38,186,863 | 27,628,722 |
| University Institution Programs | (395,719,732) | (398,078,528) |
| Related Educational Programs | 85,679,060 | 115,272,420 |
| UNC Financial Aid Private Colleges | 91,426,688 | 62,286,250 |
| NC School of Science & Math | 18,937,535 | 18,937,535 |
| UNC Hospitals | 25,000,000 | 25,000,000 |
| Total University of North Carolina – Board of Governors | $ 2,528,492,464 | $ 2,526,730,386 |

**HEALTH AND HUMAN SERVICES**

| | | |
|---|---|---|
| Department of Health and Human Services | | |
| Division of Central Management and Support | $ 45,011,380 | $ 39,411,990 |
| Division of Aging and Adult Services | 35,359,667 | 35,359,667 |
| Division of Services for Blind/Deaf/Hard of Hearing | 7,198,149 | 7,181,925 |
| Division of Child Development | 266,102,933 | 266,102,933 |
| Division of Health Service Regulation | 16,133,031 | 16,133,031 |
| Division of Medical Assistance | 2,928,301,996 | 2,904,589,504 |
| Division of Mental Health, Developmental Disabilities, and Substance Abuse Services | 648,478,227 | 673,478,227 |
| NC Health Choice | 79,452,317 | 83,717,865 |
| Division of Public Health | 186,876,812 | 153,972,401 |
| Division of Social Services | 184,286,652 | 184,286,652 |
| Division of Vocational Rehabilitation | 37,125,788 | 37,528,128 |
| Total Health and Human Services | $ 4,434,326,952 | $ 4,401,762,323 |

**NATURAL AND ECONOMIC RESOURCES**

| | | |
|---|---|---|
| Department of Agriculture and Consumer Services | $ 71,484,049 | $ 68,177,845 |
| Department of Commerce | | |
| Commerce | 48,426,722 | 31,232,429 |

| | | |
|---|---|---|
| Commerce State-Aid | 27,201,984 | 27,041,395 |
| NC Biotechnology Center | 16,576,615 | 16,576,615 |
| Rural Economic Development Center | 39,244,692 | 39,244,692 |
| Department of Environment and Natural Resources | 167,763,360 | 162,750,956 |
| DENR Clean Water Management Trust Fund | 12,500,000 | 12,500,000 |
| Department of Labor | 15,836,887 | 15,836,887 |
| Wildlife Resources Commission | 16,000,000 | 15,221,179 |
| **JUSTICE AND PUBLIC SAFETY** | | |
| Department of Correction | $ 1,337,816,346 | $ 1,348,410,793 |
| Department of Crime Control and Public Safety | 247,927,627 | 270,204,922 |
| Judicial Department | 436,243,082 | 432,464,141 |
| Judicial Department – Indigent Defense | 111,732,877 | 111,160,465 |
| Department of Justice | 52,330,297 | 24,537,108 |
| Department of Juvenile Justice and Delinquency Prevention | 135,593,692 | 131,140,565 |
| **GENERAL GOVERNMENT** | | |
| Department of Administration | $ 62,232,817 | $ 64,136,947 |
| Department of State Auditor | 11,857,574 | 10,676,035 |
| Office of State Controller | 28,368,957 | 28,368,957 |
| Department of Cultural Resources | | |
| Cultural Resources | 60,994,609 | 58,256,841 |
| Roanoke Island Commission | 1,203,491 | 0 |
| State Board of Elections | 5,186,603 | 5,126,603 |
| General Assembly | 53,259,495 | 50,104,208 |
| Office of the Governor | | |
| Office of the Governor | 4,887,061 | 4,887,061 |
| Office of State Budget and Management | 5,848,663 | 5,848,663 |
| OSBM – Reserve for Special Appropriations | 1,940,612 | 440,612 |
| Housing Finance Agency | 10,673,051 | 10,673,051 |
| Department of Insurance | | |
| Insurance | 36,393,921 | 36,393,921 |
| Insurance – Volunteer Safety Workers' Compensation | 2,294,000 | 2,623,654 |
| Office of Lieutenant Governor | 775,245 | 775,245 |
| Office of Administrative Hearings | 4,983,871 | 4,983,871 |
| Department of Revenue | 78,199,538 | 78,199,538 |
| Department of Secretary of State | 10,654,563 | 10,654,563 |

| | | |
|---|---|---|
| Department of State Treasurer | | |
| State Treasurer | 6,657,031 | 6,621,750 |
| State Treasurer – Retirement for Fire and Rescue Squad Workers | 17,812,114 | 17,812,114 |
| **RESERVES, ADJUSTMENTS, AND DEBT SERVICE** | | |
| Contingency and Emergency Fund | $ 5,000,000 | $ 5,000,000 |
| State Retirement System Contribution | 297,400,000 | 404,200,000 |
| Judicial Retirement System Contribution | 7,900,000 | 9,000,000 |
| Firemen's & Rescue Squad Workers' Pension Fund | 5,800,000 | 6,900,000 |
| National Guard Pension Fund | 263,000 | 523,000 |
| State Health Plan | 7,119,541 | 102,151,104 |
| Information Technology Fund | 4,458,142 | 6,158,142 |
| Reserve for Job Development Investment Grants (JDIG) | 15,400,000 | 27,400,000 |
| Continuation Review Reserve | 0 | 22,982,380 |
| Comprehensive Review of Compensation Plans | 2,000,000 | 0 |
| Salary Adjustment and Performance Pay Reserve | 0 | 328,000,000 |
| Severance Expenditure Reserve | 75,000,000 | 0 |
| Automated Fraud Detection Development | 1,000,000 | 7,000,000 |
| Controller – Fraud Detection Development | 500,000 | 500,000 |
| Debt Service | | |
| General Debt Service | 688,957,188 | 759,984,974 |
| Federal Reimbursement | 1,616,380 | 1,616,380 |
| **TOTAL CURRENT OPERATIONS – GENERAL FUND** | **$ 19,425,196,471** | **$ 19,886,830,031** |

**GENERAL FUND AVAILABILITY STATEMENT**

**SECTION 2.2.(a)** The General Fund availability used in developing the 2011-2013 biennial budget is shown below.

| | FY 2011-2012 | FY 2012-2013 |
|---|---|---|
| Unappropriated Balance Remaining | $ 0 | $ 72,311,073 |
| Ending Unreserved Fund Balance for FY 2009-2010 | 236,902,394 | 0 |
| Anticipated Reversions for FY 2010-2011 – S.L. 2011-15 (S.B. 109) | 537,740,799 | 0 |
| Anticipated Overcollections from FY 2010-2011 | 180,800,000 | 0 |
| Repayment of Medicaid Receipts in FY 2010-2011 | (125,000,000) | 0 |
| **Statutory Earmarks:** | | |
| Savings Reserve Account | (202,994,340) | 0 |
| Repairs and Renovations Reserve Account | (202,994,339) | 0 |
| **Beginning Unreserved Fund Balance** | **$ 424,454,514** | **$ 72,311,073** |

| | | |
|---|---|---|
| **Revenues Based on Existing Tax Structure** | **$ 18,129,800,000** | **$ 19,181,900,000** |
| **Nontax Revenues** | | |
| Investment Income | $ 59,400,000 | $ 76,700,000 |
| Judicial Fees | 217,800,000 | 217,800,000 |
| Disproportionate Share | 100,000,000 | 100,000,000 |
| Insurance | 71,400,000 | 73,500,000 |
| Other Nontax Revenues | 182,500,000 | 182,500,000 |
| Highway Trust Fund/Use Tax Reimbursement Transfer | 41,500,000 | 27,600,000 |
| Highway Fund Transfer | 20,230,000 | 24,080,000 |
| **Subtotal Nontax Revenues** | **$ 692,830,000** | **$ 702,180,000** |
| **Total General Fund Availability** | **$ 19,247,084,514** | **$ 19,956,391,073** |
| **Adjustments to Availability: 2011 Session** | | |
| Loss of Estate Tax Revenue | $ (57,100,000) | $ (72,200,000) |
| Private Sector Job Creation Package | (186,400,000) | (485,300,000) |
| Repeal Deduction for Sale of a Manufactured Home Community to Manufactured Homeowners | 100,000 | 100,000 |
| Repeal Deduction for Severance Wages | 16,000,000 | 16,400,000 |
| Repeal Credit for Recycling Oyster Shells | 100,000 | 100,000 |
| Repeal Energy Star Tax Holiday | 1,900,000 | 2,000,000 |
| Repeal Sales Tax Exemption for Nutritional Supplements Sold by Chiropractors | 300,000 | 400,000 |
| Repeal Wildlife Resources Commission Sales Tax Earmark | 22,970,000 | 23,920,000 |
| Suspend Corporate Income Tax Earmark (Public School Construction) | 0 | 74,750,000 |
| Increase in Judicial Fees | 60,986,955 | 60,986,955 |
| Increase Investment Company Notice Filing Fee | 1,600,000 | 1,600,000 |
| Increase Parking Fees for Visitors | 550,000 | 550,000 |
| Loss of Revenue from the Town of Butner | (1,213,235) | (1,213,235) |
| Transfer from E-Commerce Reserve Fund | 4,483,526 | 0 |
| Divert Funds from Parks & Recreation Trust Fund | 4,217,500 | 0 |
| Divert Funds from Recreational/Natural Heritage Trust Fund | 4,500,000 | 0 |
| Transfer from Highway Fund for State Highway Patrol | 193,585,434 | 189,859,507 |
| Transfer from Highway Trust Fund for School Bus Replacement | 35,223,642 | 0 |
| Transfer from Mercury Prevention Pollution Fund | 125,000 | 0 |
| Transfer from Commerce – Enterprise Fund | 250,000 | 0 |
| Divert Funds from Scrap Tire Disposal Account | 1,134,495 | 0 |
| Divert Funds from White Goods Management Account | 1,131,342 | 0 |
| Diversion of Golden LEAF Funds | 67,563,760 | 67,563,760 |
| Tobacco Trust Fund Master Settlement Agreement Funds | 8,334,360 | 8,790,386 |
| Health and Wellness Trust Fund Master Settlement Agreement Funds | 16,334,360 | 16,790,386 |
| Transfer Health and Wellness Trust Funds to Public Health | 32,904,411 | 0 |
| Department of Revenue – Accounts Receivable Program | 15,000,000 | 15,000,000 |
| Medicaid Disproportionate Share Receipts | 15,000,000 | 15,000,000 |
| Adjust Transfer from Insurance Regulatory Fund | (742,348) | (742,348) |
| Adjust Transfer from Treasurer's Office | (3,881,172) | (3,916,453) |
| **Subtotal Adjustments to Availability: 2011 Session** | **$ 254,958,030** | **$ (69,561,042)** |
| **Revised General Fund Availability** | **$ 19,502,042,544** | **$ 19,886,830,031** |
| **Less General Fund Appropriations** | **$ (19,429,731,471)** | **$ (19,886,830,031)** |

| | | |
|---|---|---|
| **Unappropriated Balance Remaining** | **$ 72,311,073** | **$ 0** |

**SECTION 2.2.(b)** Notwithstanding the provisions of G.S. 105-187.9(b)(1) and G.S. 105-187.9(b)(2), the sum to be transferred from the Highway Trust Fund under those subdivisions for the 2011-2012 fiscal year is forty-one million five hundred thousand dollars ($41,500,000) and for the 2012-2013 fiscal year is twenty-seven million six hundred thousand dollars ($27,600,000).

**SECTION 2.2.(c)** Notwithstanding the provisions of G.S. 115C-546.1, the Secretary of Revenue shall transfer the corporate income tax funds specified in G.S. 115C-546.1(b) to the State Controller for deposit in Nontax Budget Code 19978 (Intrastate Transfers) during the 2012-2013 fiscal year to offset continued operations of the State's public schools.

**SECTION 2.2.(d)** Notwithstanding any other provision of law to the contrary, effective July 1, 2011, the following amounts shall be transferred to the State Controller to be deposited in Nontax Budget Code 19878 (Intrastate Transfers) or the appropriate budget code as determined by the State Controller. These funds shall be used to support the General Fund appropriations as specified in this act for the 2011-2012 fiscal year.

| Budget Code | Fund Code | Description | Amount |
|---|---|---|---|
| 24100 | 2514 | E-Commerce Reserve | $ 4,483,526 |
| 54600 | 5881 | Commerce Enterprise Fund | 250,000 |
| 24300 | 2119 | Mercury Prevention Pollution Fund | 125,000 |

**SECTION 2.2.(e)** Pursuant to Section 2(b) of S.L. 1999-2, the fifty percent (50%) of the 2011-2012 and the 2012-2013 annual installment payments to the North Carolina State Specific Account that would have been transferred to The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., are transferred to the General Fund.

**SECTION 2.2.(f)** Notwithstanding the provisions of G.S. 105-187.19(b), effective for taxes levied during the 2011-2012 fiscal year, the Secretary of Revenue shall credit to the General Fund the sum of one million one hundred thirty-four thousand four hundred ninety-five dollars ($1,134,495) from the net tax proceeds that G.S. 105-187.19(b) directs the Secretary to credit to the Scrap Tire Disposal Account.

**SECTION 2.2.(g)** Notwithstanding the provisions of G.S. 105-187.24, effective for taxes levied during the 2011-2012 fiscal year, the Secretary of Revenue shall credit to the General Fund the sum of one million one hundred thirty-one thousand three hundred forty-two dollars ($1,131,342) from the net tax proceeds that G.S. 105-187.24 directs the Secretary to credit to the White Goods Management Account.

**SECTION 2.2.(h)** Notwithstanding the provisions of G.S. 105-228.30(b) and G.S. 113-44.15, effective for taxes levied during the 2011-2012 fiscal year, the Secretary of Revenue shall credit the sum of four million two hundred seventeen thousand five hundred dollars ($4,217,500) to the General Fund of the net tax proceeds that G.S. 105-228.30(b) directs the Secretary to credit to the Parks and Recreation Trust Fund.

**SECTION 2.2.(i)** Notwithstanding the provisions of G.S. 105-228.30(b) and G.S. 113-77.9, effective for taxes levied during the 2011-2012 fiscal year, the Secretary of Revenue shall credit the sum of four million five hundred thousand dollars ($4,500,000) to the General Fund of the net tax proceeds that G.S. 105-228.30(b) directs the Secretary to credit to the Natural Heritage Trust Fund.

**SECTION 2.2.(j)** Of the funds available in the year-end 2010-2011 fiscal year fund balance, the Director of the Budget may use up to one hundred twenty-five million dollars ($125,000,000) to repay the federal Centers for Medicare and Medicaid Services for excess Medicaid funds drawn down during the 2009-2010 fiscal year. The Director of the Budget shall report the amount of funds used under this section no later than 30 days after payment to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Fiscal Research Division.

**SECTION 2.2.(k)** Notwithstanding the provisions of G.S. 143C-4-3, the State Controller shall transfer only two hundred two million nine hundred ninety-four thousand three hundred thirty-nine dollars ($202,994,339) from the unreserved fund balance to the Repairs and

Renovations Reserve Account on June 30, 2011. This subsection becomes effective June 30, 2011.

**SECTION 2.2.(l)** Funds transferred under this section to the Repairs and Renovations Reserve Account are appropriated for the 2011-2012 fiscal year to be used in accordance with G.S. 143C-4-3.

**SECTION 2.2.(m)** Notwithstanding G.S. 143C-4-2, the State Controller shall transfer only two hundred two million nine hundred ninety-four thousand three hundred thirty-nine dollars ($202,994,339) from the unreserved fund balance to the Savings Reserve Account on June 30, 2011. This is not an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution. This subsection becomes effective June 30, 2011.

## PART III. CURRENT OPERATIONS/HIGHWAY FUND

### CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

**SECTION 3.1.** Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are made for the fiscal biennium ending June 30, 2013, according to the following schedule:

| **Current Operations – Highway Fund** | **2011-2012** | **2012-2013** |
|---|---|---|
| Department of Transportation | | |
| Administration | $ 85,412,594 | $ 85,412,594 |
| Division of Highways | | |
| Administration | 34,836,793 | 34,836,793 |
| Construction | 87,232,806 | 86,339,067 |
| Maintenance | 1,202,416,068 | 1,253,761,275 |
| Planning and Research | 4,055,402 | 4,055,402 |
| OSHA Program | 372,792 | 372,792 |
| Ferry Operations | 33,689,589 | 41,038,132 |
| State Aid | | |
| Municipalities | 89,373,921 | 90,187,224 |
| Public Transportation | 69,801,308 | 69,801,308 |
| Airports | 18,401,413 | 22,311,031 |
| Railroads | 21,701,153 | 21,701,153 |
| Governor's Highway Safety | 273,093 | 273,093 |
| Division of Motor Vehicles | 90,142,238 | 43,004,042 |
| Other State Agencies, Reserves, Transfers | 296,240,830 | 366,066,094 |
| Capital Improvements | 15,250,000 | 15,000,000 |
| **Total** | **$ 2,049,200,000** | **$ 2,134,160,000** |

### HIGHWAY FUND AVAILABILITY STATEMENT

**SECTION 3.2.** The Highway Fund availability used in developing the 2011-2013 fiscal biennial budget is shown below:

| **Highway Fund Availability Statement** | **2011-2012** | **2012-2013** |
|---|---|---|
| Unappropriated Balance from Previous Year | $ 24,000,000 | $ 0 |
| Beginning Credit Balance | 0 | 0 |
| Estimated Revenue | 2,025,200,000 | 2,134,160,000 |
| Total Highway Fund Availability | $ 2,049,200,000 | $ 2,134,160,000 |
| Unappropriated Balance | $ 0 | $ 0 |

## PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

### HIGHWAY TRUST FUND APPROPRIATIONS

**SECTION 4.1.** Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation and for other purposes as enumerated are made for the fiscal biennium ending June 30, 2013, according to the following schedule:

| **Current Operations – Highway Trust Fund** | **2011-2012** | **2012-2013** |
|---|---|---|
| Intrastate | $ 460,823,529 | $ 487,503,034 |
| Aid to Municipalities | 51,216,036 | 54,043,432 |
| Secondary Roads | 36,155,667 | 41,820,944 |
| Urban Loops | 275,761,364 | 237,407,986 |
| Program Administration | 44,774,400 | 47,107,200 |
| Turnpike Authority | 49,000,000 | 49,000,000 |
| Transfer to General Fund | 76,720,918 | 27,595,861 |
| Transfer to Highway Fund | 400,000 | 0 |
| Debt Service | 79,231,728 | 81,481,543 |
| Mobility Fund | 41,326,358 | 60,950,000 |
| **GRAND TOTAL CURRENT OPERATIONS** | **$ 1,115,410,000** | **$ 1,086,910,000** |

### HIGHWAY TRUST FUND AVAILABILITY STATEMENT

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

| **Highway Trust Fund Availability** | **2011-2012** | **2012-2013** |
|---|---|---|
| Unappropriated Balance | $ 75,000,000 | $ 0 |
| Estimated Revenue | 1,040,410,000 | 1,086,910,000 |
| **Total Highway Trust Fund Availability** | **$ 1,115,410,000** | **$ 1,086,910,000** |

## PART V. OTHER APPROPRIATIONS

### APPROPRIATION OF OTHER FUNDS

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

(1) For all budget codes listed in "The State of North Carolina Governor's Recommended Budget, 2011-2013" and in the Budget Support Document, cash balances and receipts are appropriated up to the amounts specified, as adjusted by the General Assembly, for the 2011-2012 fiscal year and the 2012-2013 fiscal year. Funds may be expended only for the programs, purposes, objects, and line items or as otherwise authorized by the General Assembly. Expansion budget funds listed in those documents are appropriated only as otherwise provided in this act.

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

a. Any receipts that are required to be used to pay debt service requirements for various outstanding bond issues and certificates of participation are appropriated up to the actual amounts received for the 2011-2012 fiscal year and the 2012-2013 fiscal year and shall be used only to pay debt service requirements.

b. Other funds, cash balances, and receipts of funds that meet the definition issued by the Governmental Accounting Standards Board of a trust or agency fund are appropriated for and in the amounts

required to meet the legal requirements of the trust agreement for the 2011-2012 fiscal year and the 2012-2013 fiscal year.

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

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

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

**OTHER RECEIPTS FROM PENDING GRANT AWARDS**

**SECTION 5.2.(a)** Notwithstanding G.S. 143C-6-4, State agencies may, with approval of the Director of the Budget and after consultation with the Joint Legislative Commission on Governmental Operations, spend funds received from grants awarded subsequent to the enactment of this act.

**SECTION 5.2.(b)** The Office of State Budget and Management shall work with the recipient State agencies to budget grant awards according to the annual program needs and within the parameters of the respective granting entities. Depending on the nature of the award, additional State personnel may be employed on a time-limited basis. The Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to expending any funds received from grant awards. Funds received from such grants are hereby appropriated and shall be incorporated into the authorized budget of the recipient State agency.

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

**SECTION 5.2.(d)** Notwithstanding G.S. 143C-6-4, the Department of Public Instruction may spend funds received from the following grants for the 2011-2012 fiscal year awarded subsequent to the enactment of this act for up to the specified amounts:

| | | |
|---|---|---|
| (1) | Child Nutrition Equipment Assistance | $815,762 |
| (2) | Verizon Thinkfinity State Education Partnership | $ 40,000 |
| (3) | State Abstinence Education Program | $1,585,347. |

Neither the approval of the Director of the Budget nor consultation with the Joint Legislative Commission on Governmental Operations is required prior to the expenditure of these funds. The provisions of subsection (b) of this section do not apply to these funds.

**CIVIL FORFEITURE FUNDS**

**SECTION 5.3.** Appropriations. – Appropriations are made from the Civil Penalty and Forfeiture Fund for the fiscal biennium ending June 30, 2013, as follows:

| | **FY 2011-2012** | **FY 2012-2013** |
|---|---|---|
| School Technology Fund | $ 18,000,000 | $ 18,000,000 |
| State Public School Fund | 120,362,790 | 120,362,790 |
| Total Appropriation | $ 138,362,790 | $ 138,362,790 |

**EDUCATION LOTTERY**

**SECTION 5.4.(a)** Notwithstanding G.S. 18C-164, the revenue used to support appropriations made in this act is transferred from the State Lottery Fund in the amount of four

hundred twenty-four million nine hundred seventy-three thousand six hundred thirty dollars ($424,973,630) for the 2011-2012 fiscal year.

**SECTION 5.4.(b)** Notwithstanding G.S. 18C-164, the appropriations made from the Education Lottery Fund for the 2011-2012 fiscal year are as follows:

| | |
|---|---|
| Teachers in Early Grades | $220,643,188 |
| Prekindergarten Program | $ 63,135,709 |
| Public School Building Capital Fund | $100,000,000 |
| Scholarships for Needy Students | $ 30,450,000 |
| UNC Need-Based Financial Aid | $ 10,744,733 |
| Total Appropriation | $424,973,630 |

**SECTION 5.4.(c)** Notwithstanding G.S. 18C-164, the North Carolina State Lottery Commission shall not transfer funds to the Education Lottery Reserve Fund for the 2011-2012 fiscal year or the 2012-2013 fiscal year.

**SECTION 5.4.(d)** Notwithstanding G.S. 18C-164(c), G.S. 115C-546.2(d), or any other provision of law, funds appropriated in this section to the Public School Building Capital Fund for the 2011-2012 fiscal year shall be allocated to counties on the basis of average daily membership (ADM).

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

**SECTION 5.4.(f)** Notwithstanding G.S. 18C-164(f), if the actual net lottery revenues for the 2011-2012 fiscal year exceed the amounts appropriated in subsection (b) of this section, the excess net lottery revenues shall be allocated for school capital on the basis of average daily membership.

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

## PART VI. GENERAL PROVISIONS

### CLARIFY CERTIFIED BUDGET

**SECTION 6.1.(a)** The purpose of this section is to clarify the distinction between changes to the budget enacted by the General Assembly in this act and changes made by the Director of the Budget pursuant to other authority.

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

(1) The allocation of funds set out in reserves.
(2) Government reorganizations.

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

### CONTINGENCY AND EMERGENCY FUND LIMITATION

**SECTION 6.2.** For the 2011-2013 fiscal biennium, and notwithstanding the provisions of G.S. 143C-4-4(b), funds appropriated to the Contingency and Emergency Fund may be used only for expenditures required (i) by a court or Industrial Commission order or (ii) to respond to events as authorized under G.S. 166A-5(1)a.9. of the North Carolina Emergency Management Act of 1977. These funds shall not be used for other statutorily authorized purposes or for any other contingencies and emergencies.

### ESTABLISHING OR INCREASING FEES UNDER THIS ACT

**SECTION 6.3.(a)** Notwithstanding G.S. 12-3.1, an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee to the level authorized or anticipated in this act.

**SECTION 6.3.(b)** Notwithstanding G.S. 150B-21.1A(a), an agency may adopt an emergency rule in accordance with G.S. 150B-21.1A to establish or increase a fee as authorized

by this act if the adoption of a rule would otherwise be required under Article 2A of Chapter 150B of the General Statutes.

**CONSULTATION REQUIRED BEFORE CREATION OF NEW FUNDS**

**SECTION 6.4.** Notwithstanding G.S. 143C-1-3 or any other provision of law to the contrary, the Office of State Budget and Management and the Office of the State Controller shall consult with the Joint Legislative Commission on Governmental Operations prior to the establishment of a new fund as defined in G.S. 143C-1-3.

**JUSTIFICATION/OPERATIONAL REVIEWS**

**SECTION 6.6.(a)** It is the intent of the General Assembly to subject the operations of State government and the operations of nongovernmental entities receiving State funds to periodic Justification Reviews. The Reviews shall be conducted by the Fiscal Research Division and shall specifically address the following questions:

(1) Is the program or service fulfilling the letter and/or intent of its legislative mandate?
(2) Is that mandate still justified, either in its original form or some modified form?
(3) Does the program follow identified best practices to address its mandate?
(4) Is the program duplicative of other services provided by the public or private sectors?
(5) Is the program effective?
(6) Is the program efficient?
(7) Are there any other obstacles that might limit the program's ability to accomplish its mission?

**SECTION 6.6.(b)** For the fiscal year 2011-2012, the following programs or services shall be the subject of review:

(1) Lumberton Farmer's Market – Department of Agriculture and Consumer Services.
(2) DHHS postsecondary education programs.
(3) Environmental Rating Scales Contract.

**SECTION 6.6.(c)** By May 1, 2012, the Fiscal Research Division shall report its findings and recommendations to the Appropriations Committee of the House of Representatives and the Appropriations/Base Budget Committee of the Senate. The report shall:

(1) Provide a description of each program.
(2) Identify major policy issues that the General Assembly should address.
(3) Explore means to achieve program objectives more efficiently.
(4) Characterize the likely results of alternative funding levels and/or opportunities to save taxpayer dollars.
(5) Identify performance measures that have been established by the agency and the usefulness of those performance measures, as well as the agency's progress toward meeting their established measures.

**CONTINUATION REVIEW OF CERTAIN FUNDS/PROGRAMS/DIVISIONS**

**SECTION 6.7.(a)** It is the intent of the General Assembly to periodically and systematically review the funds, agencies, divisions, and programs financed by State government. This process is known as the Continuation Review Program. The Continuation Review Program is intended to assist the General Assembly in determining whether to continue, reduce, or eliminate funding for the State's funds, agencies, divisions, and programs subject to continuation review.

**SECTION 6.7.(b)** The Appropriations Committee of the House of Representatives and the Appropriations/Base Budget Committee of the Senate may review the funds, programs, and divisions listed in this section and shall determine whether to continue, reduce, or eliminate funding for the funds, programs, and divisions, subject to the Continuation Review Program. The Fiscal Research Division may issue instructions to the State departments and agencies subject to continuation review regarding the expected content and format of the reports required by this section. No later than December 1, 2011, the following agencies shall report to the Fiscal Research Division:

(1) Justice and Public Safety. – Family Court.
(2) Education. – Center for Public Television as provided by Section 9.1 of this act.
(3) Natural and Economic Resources. –
a. Commerce/Office of Science and Technology.
b. Wildlife Resources Commission/Conservation Education.
(4) Health and Human Services. – Division of Information Resource Management.
(5) General Government. – General Assembly Facility Services.
(6) Transportation. –
a. Division of Motor Vehicles Drivers License Program.
b. Visitor Centers Funding.

**SECTION 6.7.(c)** The continuation review reports required in this section shall include the following information:

(1) A description of the fund, agency, division, or program mission, goals, and objectives.
(2) The statutory objectives for the fund, agency, division, or program and the problem or need addressed.
(3) The extent to which the fund, agency, division, or program objectives have been achieved.
(4) The fund's, agency's, division's, or program's functions or programs performed without specific statutory authority.
(5) The performance measures for each fund, agency, division, or program and the process by which the performance measures determine efficiency and effectiveness.
(6) Recommendations for statutory, budgetary, or administrative changes needed to improve efficiency and effectiveness of services delivered to the public.
(7) The consequences of discontinuing funding.
(8) Recommendations for improving services or reducing costs or duplication.
(9) The identification of policy issues that should be brought to the attention of the General Assembly.
(10) Other information necessary to fully support the General Assembly's Continuation Review Program along with any information included in instructions from the Fiscal Research Division.

**SECTION 6.7.(d)** State departments and agencies identified in subsection (b) of this section shall submit a final report to the General Assembly by March 1, 2012.

**UTILIZATION REVIEW/PUBLIC SCHOOL AND PUBLIC HEALTH NURSES**

**SECTION 6.9.(a)** Beginning July 1, 2011, the Fiscal Research Division, in consultation with the Department of Public Instruction and the Department of Health and Human Services, shall review all publicly (federal and State) funded public school nurse positions assigned within or connected to those respective organizations in order to determine the most effective and cost-efficient ways to provide needed nursing service to public school students. The review shall identify specific areas where overlaps of service provision may exist. The review shall focus on ways to maximize existing nursing resources and to change prospectively the manner in which local school nurses are allocated to better address the needs of students in the public schools at reasonable cost. Specifically, the review shall examine at least all of the following:

(1) Feasibility of having the money all flow to local public health departments for management and administration purposes to align health-related activities with the local entity best equipped to manage.
(2) Feasibility of using a mix of licensed nurses, both registered nurses (RN) and licensed practical nurses (LPN), to provide health care services in the public schools.
(3) Feasibility of allowing a school nurse to be licensed as an LPN as long as the nurse works under the direct supervision of an RN.
(4) Development of a new allocation formula that considers:
a. Average daily membership.

b. Local match requirement.
c. A base amount for each local school administrative unit.

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

**GLOBAL TRANSPARK DEBT, REPORT, AND STUDY**

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

"(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

...

(11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars ($25,000,000), that have a final maturity not later than October 1, ~~2011.~~ 2012. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss.

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

**SECTION 6.10.(b)** The Global TransPark Authority shall report to the Program Evaluation Division on its strategic, business, and financial plans. The report shall be made by no later than January 1, 2012, and shall include the Authority's proposed schedule to achieve financial self-sufficiency and proposed schedule to repay to the Escheat Fund the investment authorized under G.S. 147-69.2(b)(11) plus any accumulated interest, both of which totaled forty million sixty-seven thousand nine hundred eighteen dollars and twenty cents ($40,067,918.20) as of March 31, 2011.

**SECTION 6.10.(c)** The Program Evaluation Division of the General Assembly shall study the feasibility and implications of (i) transferring the entire Global TransPark Authority to another State agency and (ii) transferring functions of the Global TransPark Authority to other State agencies as part of a consolidation. The term "functions of the Global TransPark Authority" includes, but is not limited to, administration, planning, economic development and marketing, property management, and training center functions. The Program Evaluation Division shall report its findings and make a recommendation from this study to the Joint Legislative Program Evaluation Oversight Committee no later than May 1, 2012.

**HEALTH AND WELLNESS TRUST FUND AND TOBACCO TRUST FUND/FUTURE MSA PAYMENTS**

**SECTION 6.11.(a)** The Health and Wellness Trust Fund (HWTF) and Health and Wellness Trust Fund Commission are abolished, and Article 6C of Chapter 147 of the General Statutes is repealed.

**SECTION 6.11.(b)** Funds remaining in the Health and Wellness Trust Fund on June 30, 2011, shall be transferred to the Department of Health and Human Services and shall be carried forward to fiscal year 2011-2012 to be used by the Department for the following purposes:

(1) Up to the sum of twenty-two million dollars ($22,000,000) shall be used to administer grants associated with the following programs and initiatives:
a. Teen Tobacco Prevention.
b. ChecKmeds.
c. Medication Assistance Programs.
d. Obesity Prevention.

(2) The sum of ten million dollars ($10,000,000) shall be used to reduce the total savings required to be achieved for the Medicaid program by Community Care of North Carolina.

(3) The remainder shall be used to reduce the Medicaid Provider Rate cut.

**SECTION 6.11.(c)** G.S. 116-29.1(b)(1) reads as rewritten:

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

(1) ~~Notwithstanding G.S. 143C-9-3, of~~Of the funds credited to ~~the Tobacco Trust Account,~~Budget Code 69430 in the Department of State Treasurer, the sum of eight million dollars ($8,000,000) is transferred from ~~the Tobacco Trust Account~~Budget Code 69430 to the University Cancer Research Fund and appropriated for this purpose.

...."

**SECTION 6.11.(d)** Section 6 of S.L. 1999-2 reads as rewritten:

"Section 6. It is the intent of the General Assembly that the funds under the Master Settlement Agreement, which is incorporated into the Consent Decree, be allocated as follows:

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

(2) ~~Twenty-five percent (25%) to a trust fund to be established by the General Assembly~~Fifty percent (50%) shall be allocated as follows:

a. Debt service as authorized by the State Capital Facilities Act of 2004, Part 1 of S.L. 2004-179 and S.L. 2004-124. As soon as practicable after the beginning of each fiscal year, the State Treasurer shall estimate and transfer to Budget Code 69430 the amount of debt service anticipated to be paid during the fiscal year for special indebtedness authorized by the State Capital Facilities Act of 2004.

b. The sum of eight million dollars ($8,000,000) is credited to Budget Code 69430 and shall be transferred to the University Cancer Research Fund in accordance with G.S. 116-29.1.

c. The balance remaining to be credited to the State General Fund to be used for the following purposes:

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

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

~~(3) Twenty-five percent (25%) to a trust fund to be established by the General Assembly for the benefit of health, with this trust fund to be governed by a board of trustees comprised of a broad representation of health interests.~~"

**SECTION 6.11.(e)** The funds allocated in subdivision (2)a. of Section 6 of S.L. 1999-2, as rewritten by subsection (d) of this section, are appropriated from the General Fund for fiscal years 2011-2012 and 2012-2013 and shall be expended in accordance with the provisions of subdivision (2)a. of Section 6 of S.L. 1999-2, as amended by subsection (d) of this section.

**SECTION 6.11.(f)** Notwithstanding the provisions of G.S. 143-717(i), the administrative costs of the Tobacco Trust Fund shall not exceed six hundred twenty-five thousand dollars ($625,000) for fiscal year 2011-2012 and fiscal year 2012-2013.

**SECTION 6.11.(g)** Subsection (a) of this section shall be effective 60 days after this act becomes law or on October 1, 2011, whichever occurs first. Subsection (b) of this section becomes effective on June 30, 2011.

**CONSOLIDATION OF AIR SERVICES AND CENTRALIZATION OF AIR MANAGEMENT/STATE-OWNED PASSENGER AND NON-PASSENGER VEHICLES**

**SECTION 6.13.(a)** The State Motor Fleet project in the Work Plan of the Program Evaluation Division approved April 5, 2011, by the Joint Legislative Program Evaluation Oversight Committee is amended as described in this section.

**SECTION 6.13.(b)** The Program Evaluation Division shall evaluate the consolidation of air services provided by the Department of Transportation, the State Bureau of Investigation, and the University of North Carolina Passenger Mission and shall recommend the most appropriate agency to house the consolidated services. Other air services may be examined for consolidation by the Program Evaluation Division. The study shall evaluate savings through consolidation, including potential savings from the following:

(1) Reduction in aircraft.
(2) Reduction in personnel.
(3) Reduction in State facilities.
(4) An improved level of service.
(5) The potential sale of the DOT Beechcraft B200 aircraft tail number N3NC and if so when the sale should take place.

**SECTION 6.13.(c)** The Program Evaluation Division shall study the formation of an Aviation Management Authority, as recommended by the Program Evaluation Division's April 2010 Report "Selling 25 Underutilized Aircraft May Yield Up to $8.1 Million and Save $1.5 Million Annually."

**SECTION 6.13.(d)** The Program Evaluation Division shall study all passenger and non-passenger vehicles owned and operated by all State government departments, institutions, and entities. The study shall include motor fleet fees and associated cash balances, mechanic operations, the use and purpose of assigned vehicles, and State fueling stations and associated fees.

**SECTION 6.13.(e)** The Program Evaluation Division shall report its findings and recommendations from the State Motor Fleet project described under this section to the Joint Legislative Program Evaluation Oversight Committee no later than May 1, 2012.

**TORNADO ASSISTANCE**

**SECTION 6.14.** The General Assembly finds that on April 16, 2011, heavy thunderstorms and powerful tornadoes swept through this State, with 18 counties sustaining the most extensive damage. Those counties are Bertie, Bladen, Craven, Cumberland, Currituck, Greene, Halifax, Harnett, Hertford, Hoke, Johnston, Lee, Onslow, Pitt, Robeson, Sampson, Wake, and Wilson Counties. It is the intent of the General Assembly to provide State matching funds to help mitigate losses, rebuild infrastructure, and aid affected citizens and businesses.

## PART VI-A. INFORMATION TECHNOLOGY

**INFORMATION TECHNOLOGY FUND/AVAILABILITY**

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

| | **FY 2011-2012** | **FY 2012-2013** |
|---|---|---|
| Appropriation from General Fund | $4,458,142 | $6,158,142 |
| Interest | $ 25,000 | $ 25,000 |
| IT Fund Balance June 30 | $ 792,000 | $ 0 |
| **Total Funds Available** | **$5,275,142** | **$6,183,142** |

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

| | FY 2011-2012 | FY 2012-2013 |
|---|---|---|
| Information Technology Operations | | |
| Center for Geographic Information and Analysis | $ 599,347 | $ 599,347 |
| Enterprise Security Risk Management | $ 864,148 | $ 864,148 |
| Enterprise Project Management Office | $1,473,285 | $1,473,285 |
| Architecture and Engineering | $ 581,986 | $ 581,986 |
| Criminal Justice Information Network | $ 166,422 | $ 166,422 |
| Statewide IT Procurement | $ 0 | $ 0 |
| State Web site | $ 100,000 | $ 0 |
| ITS Overhead Reduction | ($91,486) | ($91,486) |
| Subtotal Information Technology Operations | $3,693,702 | $3,593,702 |
| Information Technology Projects | | |
| State Portal | $ 0 | $ 0 |
| IT Consolidation | $ 776,440 | $ 784,440 |
| Transfer to OSC for E-Forms | $ 500,000 | $ 500,000 |
| Subtotal Information Technology Projects | $1,276,440 | $1,284,440 |
| Data Integration License Funding Transfer to State Agencies | $ 200,000 | $1,200,000 |
| Position Transfer to Office of State Budget and Management | $ 105,000 | $ 105,000 |
| **Total** | **$5,275,142** | **$6,183,142** |

**SECTION 6A.1.(b)** By September 1 of each year, data integration funding in the Information Technology Fund for that State fiscal year shall be transferred to State agencies in proportion to their use of data integration licenses at that point in time. The State Chief Information Officer shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division by September 2 of each year on the status of the transfer.

Any licensing requirements after the 2011-2013 fiscal biennium shall be the responsibility of the participating agency. For the 2012-2013 fiscal year, the State Chief Information Officer shall provide funding in the amount of one million two hundred thousand dollars ($1,200,000) to offset data integration licensing costs and shall charge agencies based on license usage for license costs in excess of one million two hundred thousand dollars ($1,200,000). The State Chief Information Officer shall notify affected agencies of this requirement by September 1, 2011. The State Chief Information Officer shall ensure that agencies choosing to participate after that date are notified prior to agreeing to participate in the data integration license agreement. The State Chief Information Officer shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division by September 2, 2011, on agency notification of their responsibility to fund any data integration license requirements after the 2011-2013 fiscal biennium.

**SECTION 6A.1.(c)** Unless a change is approved by the State Chief Information Officer after consultation with the Office of State Budget and Management, funds appropriated to the Information Technology Fund shall be spent only as specified in this section. Changes shall not result in any degradation to the operation or project for which the funds were originally appropriated.

Any changes to the specified uses shall be approved in writing by the State Chief Information Officer and shall immediately be reported to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on General Government, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on General Government and Information Technology, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management. This report shall include detailed reasons for the changes in use and shall explain why each change does not have any potential impact on the operation or project for which the funding was originally appropriated.

**SECTION 6A.1.(d)** The Office of the State Controller shall coordinate with the Office of the State Chief Information Officer to identify four positions in the Office of the State Chief Information Officer that shall be used, effective August 1, 2011, to support planning and

implementation of an automated fraud detection capability and an e-forms/digital signature project.

**SECTION 6A.1.(e)** This section is effective when it becomes law.

**INFORMATION TECHNOLOGY OPERATIONS**

**SECTION 6A.2.(a)** Information Technology Internal Service Fund Budget. – Notwithstanding G.S. 147-33.88, the Office of Information Technology Services shall develop an annual budget for review and approval by the Office of State Budget and Management in accordance with a schedule prescribed by the Director of the Office of State Budget and Management. The approved Information Technology Internal Service Fund budget shall be included in the Governor's budget recommendations to the General Assembly.

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

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

**SECTION 6A.2.(b)** Enterprise Projects. – The State Chief Information Officer shall consult the respective State agency chief information officer and obtain approval from the Office of State Budget and Management prior to the initiation of any enterprise project or contract. State agency requirements shall be incorporated into any enterprise agreement signed by the State Chief Information Officer or his or her representative. Enterprise projects shall not exceed the participating State agencies' ability to financially support the contracts.

**SECTION 6A.2.(c)** The State Chief Information Officer shall not enter into any information technology contracts without obtaining written agreements from participating State agencies regarding the apportionment of the contract cost. State agencies agreeing to participate in a contract shall:

(1) Ensure that sufficient funds are budgeted to support their agreed shares of enterprise agreements throughout the life of the contract or project.

(2) Transfer the agreed-upon funds to the Information Technology Internal Service Fund in sufficient time for the Office of Information Technology Services to meet vendor contract requirements.

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

**SECTION 6A.2.(d)** Agency Projects. – Prior to initiation, any information technology project, or any segment of a multipart project, costing more than two hundred fifty thousand dollars ($250,000) shall be included in the agency's most recent information technology plan and shall be approved by the General Assembly.

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

(1) Any advance payment can be accomplished within the Information Technology Internal Service Fund budget.

(2) The State Controller receives conclusive evidence that the proposed agreement would be more cost-effective than a multiyear agreement that complies with G.S. 147-86.11.

(3) The procurement complies in all other aspects with applicable statutes and rules.

(4) The proposed agreement contains contract terms that protect the financial interest of the State against contractor nonperformance or insolvency through the creation of escrow accounts for funds, source codes, or both, or by any other reasonable means that have legally binding effect.

The Office of State Budget and Management shall ensure the savings from any authorized agreement shall be included in the Information Technology Internal Service Fund

rate calculations before the Office of State Budget and Management annually approves proposed rates. Any savings resulting from the agreements shall be returned to agencies included in the contract in the form of reduced rates. The Office of Information Technology Services shall submit a quarterly written report to the Office of State Budget and Management on any State agency budget impacts resulting from multiyear contracts. Under no circumstances shall multiyear contracts result in rate increases for participating agencies. The Office of Information Technology Services shall submit a quarterly written report of any authorizations granted under this section to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division of the North Carolina General Assembly.

**SECTION 6A.2.(f)** Information Technology Hosting. – State agencies developing and implementing information technology projects/applications shall use the State infrastructure to host their projects. An exception to this requirement may be granted only if approved by both the State Chief Information Officer on the basis of technology requirements and by the Office of State Budget and Management based on cost savings, subject to consultation with the Joint Legislative Commission on Governmental Operations and a report to the Joint Legislative Oversight Committee on Information Technology.

Projects/applications currently hosted outside the State infrastructure shall be returned to State infrastructure not later than the end of any current contract.

By October 1, 2011, the State Chief Information Officer shall report to the Joint Legislative Oversight Committee on Information Technology regarding projects currently hosted outside State infrastructure and a schedule to return those projects to State infrastructure.

**SECTION 6A.2.(g)** Service Level Agreements. – Service level agreements developed with supported State agencies shall include metrics for the Office of Information Technology Services as well as the supported agencies. When the Office of Information Technology Services or an agency fails to meet metrics established by the service level agreement, a report shall be provided to the Office of State Budget and Management and the Fiscal Research Division of the General Assembly within 10 days, detailing the shortfall and providing a corrective action plan with a time line.

**SECTION 6A.2.(h)** The Office of Information Technology Services shall assist State agencies in identifying the least expensive source and best value for the purchase of IT goods and services and shall ensure that agencies receive every available discount when purchasing IT goods and services. When the best value and the least expensive sources are different, the Office of Information Technology Services shall report to the Office of State Budget and Management and the Fiscal Research Division on why the least expensive vendor was not the best value.

**SECTION 6A.2.(i)** Agency Billing and Payments. – The State CIO shall ensure that bills from the Office of Information Technology Services are easily understood and fully transparent. If a State agency fails to pay its IT Internal Service Fund bills within 30 days of receipt, the Office of State Budget and Management may transfer funds from the agency to cover the cost of the bill from that agency to the IT Internal Service Fund.

**COORDINATION OF INFORMATION TECHNOLOGY REQUIREMENTS AND GEOGRAPHIC INFORMATION SYSTEM REQUIREMENTS**

**SECTION 6A.3.** The State Chief Information Officer, through the Enterprise Project Management Office, shall develop a plan and adopt measures to avoid the duplication of information technology capabilities and resources across State agencies. When multiple agencies require the same or substantially similar information technology capability, the State Chief Information Officer shall designate one State agency as the lead to coordinate support and to manage that capability for all State agencies requiring the capability, with the State Chief Information Officer maintaining oversight of the effort. Further, the Enterprise Project Management Office shall:

(1) Review all ongoing and future technology projects to determine whether the capabilities required for each project, or the specific requirements comprising a component within a project, already exist in a planned, ongoing, or completed information technology project developed by another State agency. Information Technology Procurement shall work to develop contracts for information technology projects to allow the addition of other agencies' requirements within the terms of the existing contract.

(2) Identify existing projects that can best support a particular requirement for multiple agencies and work to transition agencies to those projects.
(3) When State agencies request approval for new projects, determine if the information technology project has transferable applicability to current or future capabilities required by another State agency.
(4) Upon identifying an existing information technology capability needed by a State agency, assist that agency in determining how best to access existing projects.
(5) Implement the State Chief Information Officer's plan to reduce duplication.
(6) Deny approval for new projects that duplicate existing capabilities within State agencies.
(7) Provide quarterly reports to the Fiscal Research Division of the General Assembly on progress toward eliminating duplication. The report shall include a list of duplicate projects across State agencies, both ongoing and legacy, and shall document explicit efforts to reduce the duplication. It shall specifically address progress during the quarter for which the report is being submitted. It shall also include a list of projects denied approval because of duplication, with a description of the measures taken to access an existing project with the same capabilities.

All State agencies shall coordinate any Geographic Information System (GIS) initiatives through the Center for Geographic Information and Analysis (CGIA) to ensure that they are not duplicating an existing function. The CGIA shall monitor and approve all new GIS-related information technology projects and expansion budget requests. By January 1 of each year, the CGIA shall make a written report to the Joint Legislative Oversight Committee on Information Technology and to the Fiscal Research Division of the General Assembly on the results of these efforts.

**CRIMINAL JUSTICE LAW ENFORCEMENT AUTOMATED DATA SERVICES (CJLEADS)**

**SECTION 6A.4.(a)** The Office of the State Controller, in cooperation with the State Chief Information Officer, shall:

(1) Continue the implementation of the Criminal Justice Data Integration Pilot Program, which is now known as the Criminal Justice Law Enforcement Automated Data Services (CJLEADS), expanding it throughout the State of North Carolina;
(2) Review plans to transition CJLEADS to the Department of Justice, determining if that is still the best course of action, and identifying an alternative, if required;
(3) By October 1, 2011, provide a recommendation to the Joint Legislative Oversight Committee on Information Technology on the best alternative for managing and hosting CJLEADS, along with a time line for the transition; and
(4) Provide quarterly reports on the status of the Program to the Joint Legislative Oversight Committee on Information Technology beginning October 1, 2011.

**SECTION 6A.4.(b)** The Office of the State Controller shall administer CJLEADS with the assistance of a Leadership Council consisting of:

(1) The Attorney General;
(2) The Director of the Administrative Office of the Courts;
(3) The Secretary of the Department of Correction;
(4) The Secretary of Crime Control and Public Safety;
(5) The Secretary of the Department of Juvenile Justice and Delinquency Prevention;
(6) The Commissioner of Motor Vehicles, Department of Transportation;
(7) The President of the North Carolina Association of Chiefs of Police;
(8) The President of the North Carolina Sheriffs' Association, Inc.;
(9) A representative of the Federal Bureau of Investigation, who shall be a nonvoting member;
(10) The State Controller; and

(11) The State Chief Information Officer.

**SECTION 6A.4.(c)** Data that is not classified as a public record under G.S. 132-1 shall not be considered a public record when incorporated into the CJLEADS database.

**SECTION 6A.4.(d)** To maintain the confidentiality requirements attached to the information provided to CJLEADS by the various State and local agencies, each source agency providing data for CJLEADS shall be the sole custodian of the data for the purpose of any request for inspection or copies thereof under Chapter 132 of the General Statutes. CJLEADS shall only allow access to data from the source agencies in accordance with rules adopted by the respective source agencies.

**SECTION 6A.4.(e)** Agencies shall use existing resources to provide required support for CJLEADS.

**SECTION 6A.4.(f)** Section 6.10 of S.L. 2010-31 is repealed.

**CONTINUING PILOT PROGRAM TO ALLOW PUBLIC-PRIVATE PARTNERSHIPS TO MEET DEPARTMENT OF REVENUE TECHNOLOGY NEEDS**

**SECTION 6A.5.(a)** To speed the implementation of the Tax Information Management System (TIMS) and the additional components of the Planning and Design Project (PDP) through June 30, 2015, the Secretary of the Department of Revenue may enter into public-private arrangements where (i) the funding of the project under the arrangement comes from revenue generated by the project and (ii) the project is related to the implementation of TIMS and additional components of the PDP. As used in this section, the "additional components of the PDP" are Enterprise Data Warehouse, Management Reporting and Decision Analytics, Customer Relationship Management, Enterprise Case Management, and E-Services. All such arrangements shall terminate June 30, 2015.

Work under a public-private arrangement may be contracted by requests for proposals, modifications to existing contracts, and purchases using existing contract vehicles.

The Secretary of Revenue shall establish a measurement process to determine the increased revenue attributable to the public-private arrangements. To accomplish this, the Secretary shall consult subject matter experts outside the Department of Revenue, both within State government and from private industry. The measurement process shall include:

(1) Calculation of a revenue baseline against which the increased revenue attributable to the project is measured;

(2) Periodic evaluation to determine if the baseline needs to be modified based on significant measurable changes in the economic environment; and

(3) Monthly calculation of increased revenue attributable to contracts executed under this program.

Of funds generated from collections above the baseline established by subdivision (1) of this subsection, in both the General Fund, Highway Funds, and the State portion of the Unauthorized Substance Tax collections of the Special Revenue Fund, up to forty-five million five hundred thousand dollars ($45,500,000) may be authorized by the Office of State Budget and Management for the purchases related to the implementation of TIMS and the additional components of the PDP, including payment for services from non-State entities. The Department of Revenue may retain an additional six million six hundred forty-six thousand five hundred fifty-seven dollars ($6,646,557) from benefits generated for the General Fund since the beginning of the public-private partnership. These funds shall be used as payment of internal costs for the fiscal biennium, and such funds are hereby appropriated for this purpose.

If the Department of Revenue finds that it cannot generate additional benefits totaling forty-five million five hundred thousand dollars ($45,500,000) through June 30, 2015, or that total costs exceed the total available appropriations and earned benefits, then the Department shall do all of the following: (i) immediately notify the Chairs of the House of Representatives and Senate Appropriations Committees and the Fiscal Research Division, (ii) identify any obligations to vendors, (iii) identify options for meeting obligations to vendors, and (iv) provide costs associated with each option. The Department shall ensure that this notification is made in sufficient time to allow the General Assembly to properly evaluate the options presented.

**SECTION 6A.5.(b)** Notwithstanding G.S. 114-2.3, the Department of Revenue shall engage the services of private counsel with the pertinent information technology and computer law expertise to review requests for proposals, and to negotiate and review contracts associated with TIMS and the additional components of the Planning and Design Project (PDP)

(Enterprise Data Warehouse, Management Reporting and Decision Analytics, Customer Relationship Management, Enterprise Case Management, and E-Services).

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

The members of the Committee shall include the following:

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

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

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

**SECTION 6A.5.(d)** Beginning August 1, 2011, and quarterly thereafter, the Department of Revenue shall submit detailed written reports to the Chairs of the House of Representatives and Senate Committees on Appropriations, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the Legislative Services Office. The report shall include (i) details of each public-private contract, (ii) the benefits from each contract, (iii) a comprehensive forecast of the benefits of using public-private agreements to implement TIMS and the additional PDP components, including cost savings and the acceleration of the project time line, (iv) and any issues associated with the operation of the public-private partnership.

**SECTION 6A.5.(e)** In addition to the oversight provided by the Oversight Committee established in subsection (c) of this section, the TIMS project shall be subject to existing Information Technology project oversight legislation and the TIMS project management shall comply with all statutory requirements and other requirements established by the State Chief Information Officer and the Office of State Budget and Management for information technology projects. The State Chief Information Officer and the Office of State Budget and Management shall immediately report any failure to do so to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House of Representatives and Senate Committees on Appropriations, and the Fiscal Research Division.

**SECTION 6A.5.(f)** Section 6.20 of S.L. 2009-451, as rewritten by Section 2.3 of S.L. 2010-123, is repealed.

**INFORMATION TECHNOLOGY PERSONAL SERVICES CONTRACT REQUIREMENTS**

**SECTION 6A.6.(a)** · Effective for the 2011-2013 fiscal biennium, and notwithstanding any provision of law to the contrary:

(1) No contract for information technology personal services, or providing personnel to perform information technology functions, may be established or renewed without the express written approval of the Statewide Information Technology Procurement Office.

(2) Before any State agency, department, or institution may renew a contract position for information technology personnel, the State agency must report to the Statewide Information Technology Procurement Office, the Office of State Budget and Management, the Office of State Personnel, the Office of Information Technology Services, and to the Fiscal Research Division. The report shall explain:

a. The proposed duration of the contract position. If the contract is for more than 12 months, why recruitment of a State employee is not feasible.

b. Whether the contract position requires unique skills for which the State has a short-term need.

c. Whether the position is required for a specific information technology project and if the position will be terminated upon completion of the project.

d. The specific work products and completion time lines for the contract position.

(3) All contract positions requiring information technology skills are subject to the provisions of this section. The Office of State Budget and Management may immediately terminate the funding for any information technology contractor position that is filled without following defined procedures.

(4) All information technology personnel contracts shall be competitive and shall be subject to competition each time they expire. Exceptions must be approved by the Office of Information Technology Services, the Office of State Personnel, and the Office of State Budget and Management. Approved exceptions must immediately be reported to the Fiscal Research.

(5) Agencies shall make every effort to convert SAP and Curam contractors supporting permanent requirements to State employees. Beginning October 1, 2011, agencies shall submit written quarterly reports to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division documenting their progress in converting these contractors to State employment.

Contract positions subject to this section shall be reviewed and approved by the Statewide Information Technology Procurement Office and shall be entered into the project portfolio management tool.

The Statewide Information Technology Procurement Office shall determine the market rate for the type of contract required, as well as to determine the comparable cost for a State employee. Agencies may not exceed the market rate determined by the Statewide Information Technology Procurement Office. After the Statewide Information Technology Procurement Office provides cost data, the Office of State Budget and Management must approve funding for the position.

**SECTION 6A.6.(b)** Whenever a State agency, department, or institution determines that only a contractor can fill a position and the position is required to perform an ongoing function within the agency, the head of the State agency must develop and implement a plan to hire or train a qualified State employee to fill the position within 12 months. Within 60 days of hiring the contractor, this plan shall be forwarded to the Office of State Budget and Management, the Office of State Personnel, the Office of Information Technology Services, and the Fiscal Research Division.

**SECTION 6A.6.(c)** Beginning August 1, 2011, and monthly thereafter, each State agency, department, and institution employing information technology personal services contractors, or contract personnel performing information technology functions, shall provide a detailed report on those contracts to the Office of State Budget and Management, the Office of State Personnel, the Office of Information Technology Services, the Joint Legislative Oversight

Committee on Information Technology, and the Fiscal Research Division of the General Assembly. Each State agency's report shall include at least the following:

(1) For each contracted information technology position:
  a. The title of the position, a brief synopsis of the essential functions of the position, and how long the position has existed.
  b. The name of the individual filling the position and the vendor company, if any, that regularly employs that individual.
  c. The type of contract, start date, and termination date.
  d. The length of time that the individual filling the contracted position has been employed by the State as a contractor in any position.
  e. The contracted position salary or hourly rate, the number of hours per year, and the total annualized cost of the contracted position.
  f. The salary and benefits cost for a State employee performing the same function.
  g. The purchase order number for the position.
  h. Whether the position can be converted to a State employee position. This determination will be certified by the State Information Technology Purchasing Office.
  i. When the agency anticipates converting the position to a State employee.

(2) The total annual cost for information technology contractors and the total annual salary and benefits cost for filling the contract positions with State employees.

(3) A determination of whether the information technology functions performed by the contractor can be performed by State employees.

(4) All information required by this subsection related to information technology contractors regardless of the contracting source.

**SECTION 6A.6.(d)** Each State agency shall provide a detailed explanation of any differences between the agency report required by subsection (b) of this section and the Information Technology Expenditures Report published annually by the Office of the State Controller. This report of differences shall be due 30 days after the publication of the Office of the State Controller's report and shall be submitted to the Office of State Budget and Management, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Information Technology.

**SECTION 6A.6.(e)** This section does not apply to The University of North Carolina and its constituent institutions.

**STATE INFORMATION TECHNOLOGY CONSOLIDATION**

**SECTION 6A.7.(a)** By November 1, 2011, the State Chief Information Officer (State CIO), in conjunction with the Office of State Budget and Management (OSBM), shall develop a detailed plan for consolidating the information technology infrastructure and applications of all State agencies, departments, and institutions in the executive branch. Information technology infrastructure includes personal computers, hosting and network environments, the help desk, call centers, and information technology security. Applications include enterprise software, on-demand software, and customized software. At a minimum, the consolidation plan shall include the following:

(1) Defined targets and priorities with a detailed time line for the implementation of consolidation.

(2) The costs of consolidation by fiscal year and by agency.

(3) The anticipated savings to result from consolidation and a time line for actual achievement of those savings.

(4) Technical, policy, or other issues associated with achieving a timely and effective consolidation.

(5) A process to transfer all information technology hardware and software funding to the Office of the State CIO.

(6) Creation of a project management organization to manage all information technology projects.

(7) Review of agency, Office of Information Technology Services, and Office of the State CIO to identify redundant personnel positions.

When setting consolidation targets, the State CIO shall give high priority to infrastructure issues that pose significant risk to agency operations or data, that provide opportunities for immediate cost savings, and where a statewide approach would minimize disruption of services. In carrying out the consolidation, the Office of Information Technology Services shall utilize the authority set out in G.S. 147-33.83.

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

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

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

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

**SECTION 6A.8.(a)** For each year of the 2011-2013 fiscal biennium, receipts for the Information Technology Internal Service Fund shall not exceed one hundred ninety million dollars ($190,000,000), excluding a 60-day balance for contingencies. Rates established by the Office of State Budget and Management (OSBM) to support the IT Internal Service Fund shall be based on this required fund limit. Established rates shall be adjusted within 30 days in the event the fund exceeds the prescribed limit. In the event that an increase in receipts for the IT Internal Service Fund is required, the Office of Information Technology Services may implement the increase after consultation with the Joint Legislative Commission on Governmental Operations.

**SECTION 6A.8.(b)** Rates shall be set to support a specific service for which an agency is being charged. Overhead charges to agencies must be consistently applied and must not exceed industry standards. Rate increases shall require approval of the OSBM. Rate reductions shall be immediately implemented following notification of the OSBM.

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

**INFORMATION TECHNOLOGY PRIVATIZATION**

**SECTION 6A.9.(a)** Any privatization of any grouping of information technology services, or "towers," identified in the Infrastructure Study and Assessment (INSA) shall require prior approval from the General Assembly. Funding to support any outsourcing of any of these towers shall be specifically appropriated by the General Assembly for that purpose, to include any use of Information Technology Internal Service Fund receipts.

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

(1) Develop a detailed plan for implementing any privatization initiative to include the following:
   a. A governance and accountability structure for the privatization effort.
   b. Detailed time line with milestones.
   c. Any costs necessary to accomplish outsourcing with funding sources identified.
   d. Estimated monthly cost for each participating agency for the first five years of privatization.

e. Risks associated with privatization, measures being taken to mitigate those risks, and any costs associated with the mitigation measures.
f. Any security issues associated with outsourcing each application impacted by the outsourcing, with a detailed plan to mitigate those issues.
g. A list of State employees to be terminated with information on their job description and how long they have been employed by the State, a schedule of when the terminations are to occur, the cost of terminating each employee, and plans to assist each terminated employee.

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

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

(3) Privatize only those individual functions where verifiable market data shows that privatization will result in cost-savings to the State and there is no data identifying alternatives that generate greater savings, ensuring that agencies receive at a minimum the same level of service and functionality as the level prior to privatization.

(4) Document and certify any anticipated savings resulting from privatization by individual function.

(5) Ensure full disclosure of any privatization decisions that combine multiple services or towers into a single contract, including the costs associated with each specific service or tower included in the contract.

(6) Ensure that any changes are made across the entire executive branch.

(7) Consult the Joint Legislative Commission on Governmental Operations and report to the Joint Legislative Oversight Committee on Information Technology regarding the plan for funding any requirements formerly covered by the receipts from the privatized function.

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

(1) Report quarterly on the results of the privatization, including a detailed comparison of projected savings to actual cost, data on whether or not the vendor is meeting service level agreements, and an explanation of the reasons for any deficiency or difference.

(2) Immediately notify the Joint Legislative Commission on Governmental Operations of any outsourcing effort that does not meet projected savings or required service levels for two quarters in a row or during any two quarters of a fiscal year, and develop a corrective action plan.

(3) Terminate any contract where privatization fails to achieve projected savings or meet service levels over a period of 12 months.

**STATE PORTAL IMPLEMENTATION AND OPERATION**

**SECTION 6A.10.(a)** The Department of Administration may implement and operate a statewide electronic enterprise portal to increase the convenience of members of the public in conducting online transactions with, and obtaining information from, State government and to facilitate their interactions and communications with government agencies. The portal shall be hosted on State information technology infrastructure.

**SECTION 6A.10.(b)** Prior to any development or implementation of a State portal, the Department of Administration shall provide all of the following to the General Assembly:

(1) A detailed plan for development and implementation of the portal, to include a list of applications being considered for implementation during the 2011-2013 and 2013-2015 biennia, including:
a. A description of how the portal is to be implemented, to include the use of outside vendors, with detailed information on their

participation and the potential cost to the State, businesses, and anyone doing business with the State.

b. A list of potential services and a time line for implementing each service.

c. Detailed information on the anticipated cost of ownership of the portal and any services proposed for implementation during the period, to include the amount of any payments received by vendors supporting the project.

(2) A funding model for the implementation that does not increase the cost of services for anyone doing business with the State or reduce the receipts or other funding currently available to State agencies or included in appropriations for the 2011-2013 biennium.

(3) If the portal is outsourced, a detailed, fully executable plan to return portal operations to the State, with associated costs.

(4) Identification of internal resources that could potentially be used to develop and implement a State portal.

**SECTION 6A.10.(c)** All portal services requiring fees shall be approved by the General Assembly, and all funding for the portal, to include fees, shall be appropriated by the General Assembly. Any fees or other charges collected under this section for the State portal or any supporting functions shall be:

(1) Subject to approval by the General Assembly.

(2) Deposited in the General Fund, or in the Highway Fund for fees collected from the Department of Transportation.

The portal shall not increase fees or impose a new fee for services already provided online or through any automated means.

**SECTION 6A.10.(d)** Participation by State agencies in the portal shall be voluntary.

**SECTION 6A.10.(e)** There shall be a convenient, free alternative for any online service provided.

**SECTION 6A.10.(f)** The State portal project shall meet all requirements for project management established by the State Chief Information Officer. Nothing in this section shall exempt the State portal project from the laws governing State information technology and purchasing.

**SECTION 6A.10.(g)** Notwithstanding G.S. 114-2.3, the Department of Administration shall engage the services of private counsel with the pertinent information technology and computer law expertise to negotiate and review contracts associated with the State portal.

**SECTION 6A.10.(h)** Each quarter, beginning October 1, 2011, the Department of Administration shall provide detailed information to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on General Government, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on General Government and Information Technology, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management on the total amount of each fee and any other charge collected by the vendor for each service provided, the amount of funding collected by the State for each service and for each participating agency, and any other costs associated with operating the portal.

**SECTION 6A.10.(i)** Committee Established. – There is established in the Department of Administration the Portal Project Review Committee, which shall review services and applications proposed for inclusion in the State portal.

**SECTION 6A.10.(j)** Membership. – The Committee shall be composed of seven members as follows:

(1) Two members appointed by the Governor.

(2) Two members appointed by General Assembly, as recommended by the Speaker of the House of Representatives.

(3) Two members appointed by the General Assembly, as recommended by the President Pro Tempore of the Senate.

(4) The State Controller shall be designated as the Chair.

**SECTION 6A.10.(k)** Vacancies. – Any vacancy on the Committee shall be filled by the appointing authority.

**SECTION 6A.10.(l)** Expenses of Members. – Members of the Committee shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

**SECTION 6A.10.(m)** Staff. – Adequate staff shall be provided to the Committee by the Department of Administration.

**SECTION 6A.10.(n)** Cooperation. – The Committee may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

**SECTION 6A.10.(o)** Meeting Location. – The Committee shall hold public meetings at various locations around the State for each proposed service or application to allow interested parties and participating agencies to comment on proposed services in order to promote greater public participation in its deliberations. The Department of Administration shall grant adequate meeting space to the Committee in the State Administration Building or other State office facility as needed.

**SECTION 6A.10.(p)** Approval Authority. – The Committee shall have approval authority for services and applications not requiring a fee or imposing any cost on any State or local agency or anyone doing business with the State. For services or applications supported by fees, the Committee shall make recommendations to the next regular session of the General Assembly on the feasibility of developing and implementing these services or applications.

**TRANSFER CRIMINAL JUSTICE INFORMATION NETWORK TO THE OFFICE OF THE STATE CHIEF INFORMATION OFFICER**

**SECTION 6A.11.(a)** The Criminal Justice Information Network (CJIN), as provided in Article 69 of Chapter 143 of the General Statutes, is hereby transferred to the Office of the State Chief Information Officer. The transfer shall have all the elements of a Type II transfer, as defined in G.S. 143A-6.

**SECTION 6A.11.(b)** G.S. 143-661(a) reads as rewritten:

"(a) The Criminal Justice Information Network Governing Board is established within the ~~Department of Crime Control and Public Safety,~~ Office of the State Chief Information Officer to operate the State's Criminal Justice Information Network, the purpose of which shall be to provide the governmental and technical information systems infrastructure necessary for accomplishing State and local governmental public safety and justice functions in the most effective manner by appropriately and efficiently sharing criminal justice and juvenile justice information among law enforcement, judicial, and corrections agencies. The Board is established within the ~~Department of Crime Control and Public Safety~~ Office of the State Chief Information Officer, for organizational and budgetary purposes only and the Board shall exercise all of its statutory powers in this Article independent of control by the ~~Department of Crime Control and Public Safety.~~Office of the State Chief Information Officer."

**SECTION 6A.11.(c)** G.S. 143-664(b) reads as rewritten:

"(b) ~~Pending permanent staffing, the Department~~ The staff of the Criminal Justice Information Network shall provide the Board with professional and clerical ~~staff~~ support and any additional support the Board needs to fulfill its mandate. The ~~Board may meet in an area provided by the Department of Crime Control and Public Safety and the~~ Board's staff shall use space provided by the ~~Department.~~Office of the State Chief Information Officer."

**INTEGRATED BUDGET INFORMATION SYSTEM**

**SECTION 6A.12.(a)** The Office of State Budget and Management (OSBM) shall create a detailed, comprehensive plan for the development and implementation of the Integrated Budget Information System (IBIS). By August 1, 2011, the IBIS plan shall be submitted to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division. The plan must include at least the following:

(1) A detailed description of the system with a list of the functions.
(2) A projected time line for completion with detailed milestones.
(3) Total cost of the project, including five years of operations and maintenance costs.
(4) Projected costs for the project each month, including how the funding is to be spent.

(5) Funds identified to support the project from its inception, with the amounts and sources of funding.
(6) Personnel involved in the project, their position and responsibilities, their qualifications, the amount of time each devotes to the project, and their cost, including both State employees and contract personnel.
(7) Number and cost of personnel required to operate the system after its completion.
(8) Total number of hours required to complete the project.
(9) Outside vendors supporting the project, their functions, and their total cost.
(10) Implementation plan, to include a time line for fielding it to participating agencies.
(11) A training plan with a time line.
(12) Any risks to the project, with a strategy to mitigate those risks.

**SECTION 6A.12.(b)** Beginning August 1, 2011, on the first day of each month, the Office of State Budget and Management shall report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the status of IBIS. The monthly reports shall be signed by the project sponsor, who shall verify in writing that the information contained in the report is current, complete, and accurate. The monthly report shall include the following:

(1) Project status, to include any issues identified by the Enterprise Project Management Office.
(2) Comparison of project status to the time line, with an explanation of any differences.
(3) Detailed descriptions of milestones to be completed that month and the following month.
(4) Any changes in project cost.
(5) Actual expenditures to date and during that month.
(6) Any variances from projected expenditures and the reasons for the variance.
(7) Any potential funding shortfalls and their impact.
(8) Total hours worked each month and cumulative total hours.
(9) Any variance between projected and actual hours and the reason.
(10) Any issues identified during the month, with a corrective action plan and a time line for resolving them.
(11) Impact of any issues identified on the project schedule.
(12) Impact of any issues identified on project cost.
(13) Any changes to the project.
(14) Any change requests submitted to project vendors and their cost.

**SECTION 6A.12.(c)** The State Chief Information Officer shall immediately suspend the project if OSBM fails to provide a monthly report required by subsection (b) of this section in a timely manner until such time as the report is submitted.

**SECTION 6A.12.(d)** If OSBM fails to submit reports to the Enterprise Project Management Office for inclusion in the project portfolio management tool on time, the State CIO shall immediately suspend the project until the information is completed in the tool.

**USE OF MOBILE ELECTRONIC COMMUNICATIONS DEVICES**

**SECTION 6A.14.(a)** Every executive branch agency within State government shall develop a policy to limit the issuance and use of mobile electronic devices to the minimum required to carry out the agency's mission. By September 1, 2011, each agency shall provide a copy of its policy to the Chairs of the Appropriations Committee and the Appropriations Subcommittee on General Government of the House of Representatives, the Chairs of the Appropriations/Base Budget Committee and the Appropriations Committee on General Government and Information Technology of the Senate, the Chairs of the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management.

State-issued mobile electronic devices shall be used only for State business. Agencies shall limit the issuance of cell phones, smart phones, and any other mobile electronic devices to employees for whom access to a mobile electronic device is a critical requirement for job performance. The device issued and the plan selected shall be the minimum required to support the employees' work requirements. This shall include considering the use of pagers in

lieu of a more sophisticated device. The requirement for each mobile electronic device issued shall be documented in a written justification that shall be maintained by the agency and reviewed annually. All State agency heads, in consultation with the Office of Information Technology Services and the Office of State Budget and Management, shall document and review all authorized cell phone, smart phone, and other mobile electronic communications device procurement, and related phone, data, Internet, and other usage plans for and by their employees. Agencies shall conduct periodic audits of mobile device usage to ensure that State employees and contractors are complying with agency policies and State requirements for their use.

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

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

**SECTION 6A.14.(b)** This section does not apply to the legislative branch or the judicial branch of State government.

**USE OF DMV INSPECTION PROGRAM ACCOUNT FUND**

**SECTION 6A.15.** G.S. 20-183.7(d) reads as rewritten:

"(d) Inspection Program Account. – The Inspection Program Account is created as a nonreverting account within the Highway Fund. The Division shall administer the Account. Revenue in the Account may be used only to fund the vehicle inspection and maintenance ~~program.~~program and to fund replacement of the State Titling and Registration System and the State Automated Driver License System."

**STATEWIDE INFORMATION TECHNOLOGY PROCUREMENT**

**SECTION 6A.16.** Statewide Information Technology Procurement shall be funded through fees charged to agencies using Statewide Information Technology Procurement services. The Office of the State Chief Information Officer shall provide a fee schedule to allow cost recovery to the Office of State Budget and Management.

If agencies fail to pay for services within 30 days of billing, the Office of State Budget and Management shall transfer the unpaid amount to the State Information Technology Procurement Office.

**REPLACEMENT OF THE STATE TITLING AND REGISTRATION SYSTEM (STARS) AND THE STATE AUTOMATED DRIVER LICENSE SYSTEM (SADLS)**

**SECTION 6A.17.(a)** The Department of Transportation Division of Motor Vehicles shall begin the replacement of the State Titling and Registration System (STARS) and the State Automated Driver License System (SADLS). By October 1, 2011, the Department shall develop a plan and associated time line for accomplishing the replacement of both systems. The Department shall determine the cost for the replacement of each system and then develop a strategy for funding each. This strategy may include, but is not limited to, funding from statutory sources and bulk data fees. Priority for replacement and for funding shall be to STARS, but the Department may make the decision to concurrently initiate the replacements if sufficient funding can be identified to cover the costs for both during the time frames for each. By October 1, 2011, the Department shall provide the plan and funding strategy to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division.

**SECTION 6A.17.(b)** Beginning October 1, 2011, and quarterly thereafter until the systems replacement projects are complete, the Department shall report to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Transportation

Oversight Committee, and the Fiscal Research Division on the status of the systems replacement. The report shall include the following for each replacement project:

(1) Current status of the replacement projects.
(2) Any changes in the scope of either project and associated change requests.
(3) Any changes in cost for each project.
(4) Changes in status since the previous report.
(5) Costs during the previous quarter.
(6) Funding sources and uses during the previous quarter.
(7) Anticipated funding and expenditures by quarter for the next two years.
(8) Any issues associated with the system development and identified solutions.

**SECTION 6A.17.(c)** The Office of the State Chief Information Officer (SCIO) and the Office of Information Technology Services (ITS) shall ensure that the Department receives all required support and that the replacements are not delayed as a result of any action on the part of either office. Requirements for project review and approval shall be expedited. If the Department does not receive project approvals within two weeks after submitting required data, approval shall be automatic. If the SCIO or ITS determines it is necessary to delay or suspend the project based on technical or funding issues, either office may request committee review as defined in G.S. 147-33.72D. This review must be completed within five days.

**ENTERPRISE ELECTRONIC FORMS AND DIGITAL SIGNATURES**

**SECTION 6A.18.(a)** Under the direction of the State Controller, the State shall plan, develop, and implement a coordinated enterprise electronic forms and digital signatures capability. In developing this capability, the State Controller shall determine the cost of converting forms to an electronic format, determine priorities for converting forms, and establish milestones for completing this conversion.

The State Controller shall integrate executive branch agencies already in the process of developing electronic forms and digital signatures projects. Before beginning this effort, the State Controller shall determine specific agency requirements and incorporate their requirements into its planning efforts.

**SECTION 6A.18.(b)** Beginning October 1, 2011, the State Controller shall present quarterly reports on the status of the project to the Joint Legislative Oversight Committee on Information Technology.

**EVALUATION OF STATE INFORMATION TECHNOLOGY OPERATIONS**

**SECTION 6A.19.(a)** The General Assembly shall conduct a detailed, comprehensive evaluation of information technology operations, infrastructure, systems, ongoing projects, and applications within State government. This evaluation shall include, but is not limited to, the following:

(1) Documentation of the information technology organization and function within State government and individual agencies.
(2) Development of a complete inventory of information technology assets and resources within the State.
(3) Documentation and review of agencies' information technology operations.
(4) Documentation of actual agency information technology costs.
(5) Identification and documentation of the costs associated with specific information technology projects and support.
(6) Identification and documentation of funding sources.
(7) Identification and documentation of common requirements for information technology infrastructure, systems, projects, or applications.

The General Assembly may enter into any contracts necessary to facilitate completion of this evaluation.

**SECTION 6A.19.(b)** The chairs of the Appropriations Committee of the House of Representatives and the Appropriations/Base Budget Committee of the Senate shall establish a project team to develop an evaluation plan/methodology and manage the day-to-day operation of the evaluation.

**SECTION 6A.19.(c)** The project team shall develop a detailed schedule prior to the initiation of the evaluation. The schedule shall provide for the evaluation to be conducted in phases. The initial phase shall include all agencies within the executive branch, both Cabinet

and Council of State agencies. The scope of subsequent phases shall be determined by the project team during or immediately following the initial phase.

**SECTION 6A.19.(d)** Agencies shall provide all requested support for evaluation requirements and deliver accurate, complete, and timely data as required to facilitate the evaluation. The agency head shall verify, in writing, the accuracy, completeness, and timeliness of the data. If any support or data provided by an agency does not meet study standards, the agency's information technology functions shall automatically be subject to a continuation review the next fiscal year.

In instances where an immediate change may create opportunities for savings or efficiencies are identified, the project team may recommend implementation of the change prior to completion of the evaluation.

**SECTION 6A.19.(e)** The General Assembly shall establish an advisory committee that includes business and information technology subject matter experts to provide advice and assistance during the evaluation. The State Controller shall serve as Chairman of the committee.

The President Pro Tempore of the Senate shall appoint five members to the advisory committee, to include an executive from an information technology company, an executive from a Cabinet agency, a Council of State agency Chief Information Officer, a Cabinet agency Chief Financial Officer, and a representative from the Office of Information Technology Services. The Speaker of the House of Representatives shall appoint five members, to include an executive with a private industry management consulting background, an executive from a Council of State agency, a Cabinet agency Chief Information Officer, a Council of State agency Chief Financial Officer, and a representative from the Office of State Budget and Management.

Staff to the committee shall be provided by the General Assembly and shall include analysts and attorneys with a thorough knowledge of information technology operations within the State.

**SECTION 6A.19.(f)** The Joint Legislative Oversight Committee on Information Technology shall monitor the progress of the evaluation.

Beginning October 1, 2011, the project team shall provide quarterly reports to the chairs of the Appropriations Committee of the House of Representatives and the Appropriations/Base Budget Committee of the Senate, the chairs of the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division.

**SECTION 6A.19.(g)** Of the funds appropriated to the General Assembly in Section 2.1 of this act, the sum of two million dollars ($2,000,000) for the 2011-2012 fiscal year and the sum of three million dollars ($3,000,000) for the 2012-2013 fiscal year shall be used to implement this section.

**COMPREHENSIVE ENTERPRISE-LEVEL DATA INTEGRATION CAPABILITY**

**SECTION 6A.20.(a)** The Office of the State Controller (OSC) shall continue the development of a comprehensive enterprise-level data integration capability, providing broad access to and analysis of information across State government. As part of this development effort, by October 1, 2011, OSC shall update the BEACON Strategic Plan for Data Integration and shall provide the updated plan to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division of the General Assembly. The priority of effort for data integration shall be the Criminal Justice Law Enforcement Automated Data System (CJLEADS).

The strategic plan shall comply with all necessary security measures and restrictions to ensure that access to any specific information held confidential under federal or State law shall be limited to appropriate and authorized persons. OSC shall also develop, document, and enforce security requirements for data integration initiatives, to include establishing and monitoring security standards for vendors supporting development and implementation efforts.

**SECTION 6A.20.(b)** There is created a Data Integration Steering Committee that shall have responsibility for overseeing all data integration efforts in the State. This Committee shall assume all of the BEACON Project Steering Committee roles and responsibilities for oversight of data integration projects. This Committee shall be chaired by the State Controller and shall include the following six voting members:

(1) One member appointed by the Governor with an information technology background and experience.

(2) One member appointed by the Governor with a background in law enforcement.
(3) One member appointed by the President Pro Tempore of the Senate with a background in government accounting.
(4) One member appointed by the President Pro Tempore of the Senate with government operations experience.
(5) One member appointed by the Speaker of the House of Representatives with a background in information technology.
(6) One member appointed by the Speaker of the House of Representatives with a background in business management.

Members shall not have any association with potential vendors.

The Director of the Office of State Budget and Management, the State Chief Information Officer, the State Treasurer, and the State Auditor shall serve as advisory members.

The Committee shall be housed in and supported by the Office of the State Controller.

**SECTION 6A.20.(c)** As part of the State's continuing effort to develop a comprehensive enterprise-level data integration capability, the Office of the State Controller shall develop an enterprise process to detect fraud, waste, and improper payments across State agencies. State agencies shall fully support and participate in OSC's efforts to develop an automated fraud detection system.

In support of the automated fraud detection effort, the OSC shall:

(1) Develop a detailed long-range plan to implement an automated fraud detection system within State agencies.
(2) Determine costs, to include vendor costs, for the effort for five years, beginning July 1, 2011.
(3) Coordinate with State agencies to determine interest in participating in the project and to identify potential applications that can be included in an initial request for proposal.
(4) Establish priorities for developing and implementing potential applications.
(5) Evaluate savings resulting from each effort.
(6) Coordinate efforts with the State's data integration vendor to begin the implementation process.
(7) Establish a pilot to begin the implementation process and to identify and resolve issues associated with expansion of the initiative.
(8) Coordinate with participating agencies to ensure that each has the resources and processes necessary to follow up on incidents of fraud identified by the vendor.
(9) Provide recommendations to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division of the General Assembly on potential future initiatives and the cost and savings associated with each.

**SECTION 6A.20.(d)** Beginning October 1, 2011, the OSC shall provide quarterly reports to the chairs of the Appropriations Committee of the House of Representatives and the Appropriations/Base Budget Committee of the Senate, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division of the General Assembly. These reports shall include the following:

(1) Incidents, types, and amounts of fraud identified, by agency.
(2) The amount actually recovered as a result of fraud identification, by agency.
(3) Agency procedural changes resulting from fraud identification and the time line for implementing each.
(4) State costs for fraud detection for the previous quarter.
(5) Payments to the vendor for the previous quarter.
(6) Anticipated costs and vendor payments for each of the next two years from the date of the report.

**SECTION 6A.20.(e)** The Office of the State Controller is authorized to enter into an enterprise automated fraud detection contract for eight million dollars ($8,000,000) for a two-year contract period and shall limit payments to the following payment schedule:

(1) December 2011–$1,000,000.
(2) July 2012–$3,000,000.
(3) December 2012–$3,000,000.
(4) June 2013–$1,000,000.

To maximize cost reductions and savings, the Office of the State Controller shall enter into the agreement no later than September 1, 2011. To ensure this is a Public-Private Partnership, the Office of the State Controller shall ensure that the chosen vendor shall contribute resources valued at least five million dollars ($5,000,000) during each of fiscal year 2011-2012 and fiscal year 2012-2013 for the project's success.

**SECTION 6A.20.(f)** Of the funds appropriated from the General Fund to the Office of the State Controller, the sum of one million five hundred thousand dollars ($1,500,000) for the 2011-2012 fiscal year and the sum of seven million five hundred thousand dollars ($7,500,000) for the 2012-2013 fiscal year shall be used to support the enterprise process to detect fraud, waste, and improper payments across State agencies in each year of the biennium. Of these funds, five hundred thousand dollars ($500,000) each year shall be used by the Office of the State Controller to support the initiative. The remainder may be used to fund payments to the vendor.

## PART VII. PUBLIC SCHOOLS

### EDUCATION REFORM IN NORTH CAROLINA

**SECTION 7.1.(a)** It is a priority of the General Assembly that high school graduates enter the workforce or higher education fully prepared. To implement this priority, the Joint Education Oversight Committee shall study (i) literacy and (ii) ways to reduce the need for remedial or developmental education in the State's higher education institutions so that students and the State do not pay repeatedly for the same education. The Committee shall report to the 2012 Regular Session of the 2011 General Assembly with a comprehensive plan, including implementation dates and schedules, that addresses the following items:

(1) Implementation of a third grade literacy policy, including the advisability of a program for third grade reading specialists modeled on Florida's reading specialist program.
(2) Ways to hold high schools accountable for the higher education performance of their students, including requiring funding for developmental education to come from high schools.
(3) The most cost-effective way to provide remedial education in higher education, including funding summer term developmental courses at community colleges based on successful course completions, focusing remediation at the community colleges, and redirecting university appropriations for remedial education to the community colleges.

**SECTION 7.1.(b)** In all cases, any program implemented needs to be structured so that ongoing, evaluable performance and outcome data is available.

**SECTION 7.1.(c)** Funds appropriated to implement this section may be used by the Committee to hire one or more external consultants to complete these studies.

### CAREER AND COLLEGE PROMISE

**SECTION 7.1A.(a)** The State Board of Education and the North Carolina Community College System shall establish the Career and College Promise program. The purpose of Career and College Promise is to offer structured opportunities for qualified high school students to dually enroll in community college courses that provide pathways consistent with subsection (b) of this section that lead to a certificate, diploma, or degree as well as provide entry-level jobs skills. Academic credits earned through Career and College Promise shall enable students who continue into postsecondary education after graduating from high school to complete a postsecondary credential in less time than would normally be required. All existing high school transition programs, including Huskins, Concurrent Enrollment, Cooperative and Innovative High Schools, Learn and Earn, and Learn and Earn Online shall be consolidated and replaced by Career and College Promise.

**SECTION 7.1A.(b)** North Carolina community colleges, subject to approval by the State Board of Community Colleges, may offer the following Career and College pathways

aligned with the K-12 curriculum and career and college ready standards adopted by the State Board of Education:

(1) A Career Technical Education Pathway, leading to a certificate or diploma aligned with one or more high school Tech Prep Career Clusters.

(2) A College Transfer Pathway, leading to a college transfer certificate requiring the successful completion of eight college transfer courses, including English and mathematics.

(3) A cooperative innovative high schools program approved under Part 9 of Article 16 of Chapter 115C of the General Statutes.

**SECTION 7.1A.(c)** Constituent institutions of The University of North Carolina System, subject to approval by the Board of Governors of The University of North Carolina, may offer as a Career and College pathway a cooperative innovative high schools program approved under Part 9 of Article 16 of Chapter 115C of the General Statutes. The pathway must align with the K-12 curriculum and career and college ready standards adopted by the State Board of Education.

**SECTION 7.1A.(d)** The North Carolina Community College System and the Department of Public Instruction shall jointly develop and implement a program accountability plan to evaluate short-term and long-term outcomes for Career and College Promise. Outcomes to be measured shall include the following items:

(1) The impact of dual enrollment on high school completion.

(2) The academic achievement and performance of dually enrolled high school students.

(3) The number of students who successfully complete college certificates while dually enrolled.

(4) The impact of dual enrollment and certificate completion on enrollment in college.

(5) The persistence and completion rates of students who continue into college programs after high school graduation.

(6) The academic achievement and performance of students who continue into colleges programs after high school graduation.

**SECTION 7.1A.(e)** Community colleges shall generate budget FTE for instruction provided through Career and College Promise. The Community Colleges System Office shall report to the Joint Education Oversight Committee or, if the General Assembly is in session, to the House and Senate Education Committees no later than February 1 regarding the number and cost of high school FTE served as a result of the Career and College Promise program created by this section.

**SECTION 7.1A.(f)** G.S. 115D-1.1 and G.S. 115D-1.2 are repealed.

**SECTION 7.1A.(g)** G.S. 115D-41 reads as rewritten:

"**§ 115D-41. Restrictions on contracts with local school administrative units; use of community college facilities by public school students pursuant to cooperative programs.**

(a) Community college contracts with local school administrative units shall not be used by these agencies to supplant funding for a public school high school teacher providing courses offered pursuant to G.S. 115D-20(4) who is already employed by the local school administrative unit. ~~However, if a community college contracts with a local school administrative unit for a public high school teacher to teach a college level course, the community college shall not generate budget FTE for that course. Its reimbursement in this case shall be limited to the direct instructional costs contained in the contract, plus fifteen percent (15%) for administrative costs.~~ In no event shall a community college contract with a local school administrative unit to provide high school level courses.

...."

**SECTION 7.1A.(h)** G.S. 115D-20 reads as rewritten:

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

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

...

(4) To apply the standards and requirements for admission and graduation of students and other standards established by the State Board of Community Colleges. ~~Provided, notwithstanding~~Notwithstanding any law or administrative rule to the contrary, ~~local administrative boards and local school boards may establish cooperative programs in the areas they serve to provide for college courses to be offered to qualified high school students with college credits to be awarded to those high school students upon the successful completion of the courses. Provided, further, that during~~local community colleges are permitted to offer the following programs:

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

1. Cooperative innovative high school programs as provided by Part 9 of Article 16 of Chapter 115C of the General Statutes.

2. Academic transition pathways for qualified high school students that lead to a career technical education certificate or diploma.

3. College transfer certificates requiring the successful completion of eight college transfer courses, including English and mathematics.

b. During the summer quarter, persons less than 16 years old may be permitted to take noncredit courses on a self-supporting basis, subject to rules of the State Board of Community Colleges. ~~Provided, further, that high~~

c. High school students may be permitted to take noncredit courses in safe driving on a self-supporting basis during the academic year or the summer.

...."

**SECTION 7.1A.(i)** The North Carolina Community College System, University of North Carolina General Administration, and the North Carolina Independent Colleges and Universities shall develop a plan for articulation of a college transfer certificate to all UNC institutions and participating independent colleges and universities. North Carolina Independent Colleges and Universities, Inc., shall also be included in the development of the plan if it chooses to participate. College transfer certificates shall require the successful completion of eight college transfer courses, including English and mathematics, and will be available to high school students under this section, as well as community college students.

**SECTION 7.1A.(j)** Part 9 of Article 16 of Chapter 115C of the General Statutes reads as rewritten:

"Part 9. Cooperative Innovative High School Programs.

**"§ 115C-238.50. Purpose.**

(a) The purpose of this Part is to authorize local boards of education to jointly establish with one or more boards of trustees cooperative innovative programs in high schools and colleges or universities that will expand students' opportunities for educational success through high quality instructional programming. These cooperative innovative high school programs shall ~~target:~~target any of the following groups:

(1) High school students who are at risk of dropping out of school before attaining a high school ~~diploma; or~~diploma.

(2) High school students with parents who did not continue education beyond high school.

~~(2)~~(3) High school students who would benefit from accelerated academic instruction.

(b) All the cooperative innovative high school programs established under this Part shall:

(1) Enable students to concurrently obtain a high school diploma and begin or complete an associate degree program, master a certificate or vocational program, or earn up to two years of college credit within five years.

(1a) Prepare students adequately for future learning in the workforce or in an institution of higher education.

~~(2) Expand students' educational opportunities within the public school system.~~

~~(3) Be centered on the core academic standards represented by the college preparatory or tech prep program of study as defined by the State Board of Education.~~

(4) Encourage the cooperative or shared use of resources, personnel, and facilities between public schools and colleges or universities, or both.

~~(5) Integrate and emphasize both academic and technical skills necessary for students to be successful in a more demanding and changing workplace.~~

(6) Emphasize parental involvement and provide consistent counseling, advising, and parent conferencing so that parents and students can make responsible decisions regarding course taking and can track the students' academic progress and success.

~~(7) Be held accountable for meeting measurable student achievement results.~~

~~(8) Encourage the use of different and innovative teaching methods.~~

~~(9) Establish joint institutional responsibility and accountability for support of students and their success.~~

~~(10) Effectively utilize existing funding sources for high school, college, university, and vocational programs and actively pursue new funding from other sources.~~

(11) Develop methods for early identification of potential participating students in the middle grades and through high ~~school.~~school and provide outreach to those students to promote academic preparation and awareness of the cooperative innovative high school programs.

~~(12) Reduce the percentage of students needing remedial courses upon their initial entry from high school into a college or university.~~

~~(c) Programs developed under this Part that target students who are at risk of dropping out of high school before attaining a high school diploma shall:~~

~~(1) Provide these students with the opportunity to graduate from high school possessing the core academic skills needed for postsecondary education and high-skilled employment.~~

~~(2) Enable students to complete a technical or academic program in a field that is in high demand and has high wages.~~

~~(3) Set and achieve goals that significantly reduce dropout rates and raise high school and college retention, certification, and degree completion rates.~~

~~(4) Enable students who complete these programs to pass employer exams, if applicable.~~

~~(d) Cooperative innovative high school programs that offer accelerated learning programs shall:~~

~~(1) Provide a flexible, customized program of instruction for students who would benefit from accelerated, higher level coursework or early graduation from high school.~~

~~(2) Enable students to obtain a high school diploma in less than four years, to begin or complete an associate degree program, to master a certificate or vocational program, or to earn up to two years of college credit.~~

~~(3) Offer a college preparatory academic core and in depth studies in a career or technical field that will lead to advanced programs or employment opportunities in engineering, health sciences, or teaching.~~

~~(e) Cooperative innovative high school programs may include the creation of a school within a school, a technical high school, a high school or technical center located on the campus of a college or university, or a five year career academy operating as part of an existing high school.~~

(f) Students are eligible to attend these programs as early as ninth grade.

**"§ 115C-238.50A. Definitions.**

The following definitions apply in this Part:

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

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

(3) Governing board. – The State Board of Education, the State Board of Community Colleges, the Board of Governors of The University of North

Carolina, or the Board of the North Carolina Independent Colleges and Universities.

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

(5) Cooperative innovative high school. – A high school that meets the following criteria:

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

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

c. It is located on the campus of the institution of higher education, unless the governing board specifically waives the requirement through adoption of a formal resolution.

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

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

...

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

...

**"§ 115C-238.54. Funds for programs.**

(a) The Department of Public Instruction shall assign a school code for each program that is approved under this ~~Part, with the exception of a five year career academy operating as part of an existing high school, which shall continue to use the existing school code. All positions and other State and federal allotments that are generated for this program shall be assigned to that school code.~~ Part. Notwithstanding G.S. 115C-105.25, once ~~funds are assigned to that school code,~~ the program has been assigned a school code, the local board of education may use these funds for the program and may transfer these funds between funding allotment categories.

~~(a1) A five year career academy operating as part of an existing high school shall maintain records to identify and evaluate students enrolled in the five year career academy program distinct from the general school population.~~

...."

**SECTION 7.1A.(k)** Cooperative innovative high schools approved by the State Board of Education prior to July 1, 2011, shall meet the requirements of G.S. 115C-238.50A(5) as enacted by subsection (j) of this section no later than July 1, 2014. Any cooperative innovative high school which fails to meet the requirements by that date shall no longer be authorized as a cooperative innovative high school.

**SECTION 7.1A.(l)** Subsection (e) of this section takes effect January 1, 2013, and is repealed effective June 30, 2015. The remainder of this section becomes effective January 1, 2012.

**CLASS SIZE REDUCTION FOR GRADES 1-3**

**SECTION 7.1B.** The General Assembly finds that educational research has shown that small classes of 15 or fewer students result in marked improvement in learning in grades 1-3, as measured by standardized tests in reading and mathematics, that the advantages gained from being in small classes have been shown to have a lasting benefit into the later years of students' lives, and that these studies have shown that small classes have a particularly beneficial effect on the academic achievement of children from disadvantaged backgrounds. The General Assembly further finds that larger class sizes allow less time to develop relationships with students, colleagues, and parents, and prevent the implementation of new and more dynamic and individualized teaching strategies and techniques. Therefore, it is the intent of the General Assembly to reduce class size in grades 1 through 3 to a class size allotment not exceeding 1:15 as funds become available.

**FUNDS FOR CHILDREN WITH DISABILITIES**

**SECTION 7.2.** The State Board of Education shall allocate additional funds for children with disabilities on the basis of three thousand five hundred eighty-five dollars and eighty-eight cents ($3,585.88) per child. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and five-tenths percent (12.5%) of its 2011-2012 allocated average daily membership in the local school administrative unit. The dollar amounts allocated under this section for children with disabilities shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve children with disabilities.

**FUNDS FOR ACADEMICALLY GIFTED CHILDREN**

**SECTION 7.3.** The State Board of Education shall allocate additional funds for academically or intellectually gifted children on the basis of one thousand one hundred ninety-two dollars and ninety cents ($1,192.90) per child for fiscal year 2011-2012 and one thousand one hundred ninety-two dollars and ninety cents ($1,192.90) per child for fiscal year 2012-2013. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2011-2012 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The dollar amounts allocated under this section for academically or intellectually gifted children shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve academically or intellectually gifted children.

**USE OF SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES**

**SECTION 7.4.(a)** Use of Funds for Supplemental Funding. – All funds received pursuant to this section shall be used only (i) to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, school computer technicians, instructional supplies and equipment, staff development, and textbooks and (ii) for salary supplements for instructional personnel and instructional support personnel. Local boards of education are encouraged to use at least twenty-five percent (25%) of the funds received pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II in grades 4 and 7.

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

(1) "Anticipated county property tax revenue availability" means the county-adjusted property tax base multiplied by the effective State average tax rate.

(2) "Anticipated total county revenue availability" means the sum of the following:

a. Anticipated county property tax revenue availability.

b. Local sales and use taxes received by the county that are levied under Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of Chapter 105 of the General Statutes.

c. Sales tax hold harmless reimbursement received by the county under G.S. 105-521.

d. Fines and forfeitures deposited in the county school fund for the most recent year for which data are available.

(3) "Anticipated total county revenue availability per student" means the anticipated total county revenue availability for the county divided by the average daily membership of the county.

(4) "Anticipated State average revenue availability per student" means the sum of all anticipated total county revenue availability divided by the average daily membership for the State.

(5) "Average daily membership" means average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education. If a county contains only part of a local school administrative unit, the average daily membership of that county includes all students who reside within the county and attend that local school administrative unit.

(6) "County-adjusted property tax base" shall be computed as follows:
a. Subtract the present-use value of agricultural land, horticultural land, and forestland in the county, as defined in G.S. 105-277.2, from the total assessed real property valuation of the county.
b. Adjust the resulting amount by multiplying by a weighted average of the three most recent annual sales assessment ratio studies.
c. Add to the resulting amount the following:
1. Present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2.
2. Value of property of public service companies, determined in accordance with Article 23 of Chapter 105 of the General Statutes.
3. Personal property value for the county.

(7) "County-adjusted property tax base per square mile" means the county-adjusted property tax base divided by the number of square miles of land area in the county.

(8) "County wealth as a percentage of State average wealth" shall be computed as follows:
a. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of five-tenths.
b. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of four-tenths.
c. Compute the percentage that the county-adjusted property tax base per square mile is of the State-adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth.
d. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.

(9) "Effective county tax rate" means the actual county tax rate multiplied by a weighted average of the three most recent annual sales assessment ratio studies.

(10) "Effective State average tax rate" means the average of effective county tax rates for all counties.

(11) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(12) "Per capita income" means the average for the most recent three years for which data are available of the per capita income according to the most recent report of the United States Department of Commerce, Bureau of Economic Analysis, including any reported modifications for prior years as outlined in the most recent report.

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

(14) "State average current expense appropriations per student" means the most recent State total of county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(15) "State average adjusted property tax base per square mile" means the sum of the county-adjusted property tax bases for all counties divided by the number of square miles of land area in the State.

(16) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(17) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If

real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

**SECTION 7.4.(c)** Eligibility for Funds. – Except as provided in subsection (g) of this section, the State Board of Education shall allocate these funds to local school administrative units located in whole or in part in counties in which the county wealth as a percentage of the State average wealth is less than one hundred percent (100%).

**SECTION 7.4.(d)** Allocation of Funds. – Except as provided in subsection (f) of this section, the amount received per average daily membership for a county shall be the difference between the State average current expense appropriations per student and the current expense appropriations per student that the county could provide given the county's wealth and an average effort to fund public schools. (To derive the current expense appropriations per student that the county could be able to provide given the county's wealth and an average effort to fund public schools, multiply the county's wealth as a percentage of State average wealth by the State average current expense appropriations per student.) The funds for the local school administrative units located in whole or in part in the county shall be allocated to each local school administrative unit located in whole or in part in the county based on the average daily membership of the county's students in the school units. If the funds appropriated for supplemental funding are not adequate to fund the formula fully, each local school administrative unit shall receive a pro rata share of the funds appropriated for supplemental funding.

**SECTION 7.4.(e)** Formula for Distribution of Supplemental Funding Pursuant to This Section Only. – The formula in this section is solely a basis for distribution of supplemental funding for low-wealth counties and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for low-wealth counties.

**SECTION 7.4.(f)** Minimum Effort Required. – Counties that had effective tax rates in the 1996-1997 fiscal year that were above the State average effective tax rate but that had effective rates below the State average in the 1997-1998 fiscal year or thereafter shall receive reduced funding under this section. This reduction in funding shall be determined by subtracting the amount that the county would have received pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount that the county would have received if qualified for full funding and multiplying the difference by ten percent (10%). This method of calculating reduced funding shall apply one time only. This method of calculating reduced funding shall not apply in cases in which the effective tax rate fell below the statewide average effective tax rate as a result of a reduction in the actual property tax rate. In these cases, the minimum effort required shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995 Session Laws. If the county documents that it has increased the per student appropriation to the school current expense fund in the current fiscal year, the State Board of Education shall include this additional per pupil appropriation when calculating minimum effort pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

**SECTION 7.4.(g)** Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2011-2013 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if the following apply:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and

(2) The county cannot show (i) that it has remedied the deficiency in funding or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section. The State Board of Education shall adopt rules to implement this section.

**SECTION 7.4.(h)** Reports. – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2012, if it determines that counties have supplanted funds.

**SECTION 7.4.(i)** Department of Revenue Reports. – The Department of Revenue shall provide to the Department of Public Instruction a preliminary report for the current fiscal year of the assessed value of the property tax base for each county prior to March 1 of each year and a final report prior to May 1 of each year. The reports shall include for each county the annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of total real property represented by the present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2, (iii) property of public service companies determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.

**LITIGATION RESERVE FUNDS**

**SECTION 7.5.** The State Board of Education may expend up to five hundred thousand dollars ($500,000) each year for the 2011-2012 and 2012-2013 fiscal years from unexpended funds for certified employees' salaries to pay expenses related to litigation.

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

**SECTION 7.6.(a)** Funds appropriated for the Uniform Education Reporting System shall not revert at the end of the 2010-2011 fiscal year.

**SECTION 7.6.(b)** This section becomes effective June 30, 2011.

**FOCUSED EDUCATION REFORM PROGRAM FUNDS DO NOT REVERT**

**SECTION 7.7.(a)** Funds appropriated for the Focused Education Reform Pilot Program that are unexpended and unencumbered at the end of the 2010-2011 fiscal year shall not revert but shall remain available for expenditure for that purpose through the 2011-2012 fiscal year.

**SECTION 7.7.(b)** This section becomes effective June 30, 2011.

**DISADVANTAGED STUDENT SUPPLEMENTAL FUNDING (DSSF)**

**SECTION 7.8.(a)** Funds appropriated for disadvantaged student supplemental funding shall be used, consistent with the policies and procedures adopted by the State Board of Education, only to:

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

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

**SECTION 7.8.(b)** Funds appropriated to a local school administrative unit for disadvantaged student supplemental funding shall be allotted based on (i) the local school administrative unit's eligible DSSF population and (ii) the difference between a teacher-to-student ratio of 1:21 and the following teacher-to-student ratios:

(1) For counties with wealth greater than ninety percent (90%) of the statewide average, a ratio of 1:19.9.
(2) For counties with wealth not less than eighty percent (80%) and not greater than ninety percent (90%) of the statewide average, a ratio of 1:19.4.
(3) For counties with wealth less than eighty percent (80%) of the statewide average, a ratio of 1:19.1.
(4) For LEAs receiving DSSF funds in 2005-2006, a ratio of 1:16. These LEAs shall receive no less than the DSSF amount allotted in 2006-2007.

For the purpose of this subsection, wealth shall be calculated under the low-wealth supplemental formula.

**SECTION 7.8.(c)** If a local school administrative unit's wealth increases to a level that adversely affects the unit's DSSF allotment ratio, the DSSF allotment for that unit shall be maintained at the prior year level for one additional fiscal year.

**TUITION CHARGE FOR GOVERNOR'S SCHOOL**

**SECTION 7.9.** G.S. 115C-12(36) reads as rewritten:

"(36) Duty to Charge Tuition for the Governor's School of North Carolina. – The State Board of Education ~~shall~~ may implement a ~~five hundred dollar ($500.00)~~ tuition charge for students attending the Governor's School of North ~~Carolina.~~Carolina to cover the costs of the School."

**SCHOOL CONNECTIVITY INITIATIVE FUNDS**

**SECTION 7.10.(a)** Section 7.9(b) of S.L. 2010-31 reads as rewritten:

"**SECTION 7.9.(b)** Up to three hundred fifty thousand dollars ($350,000) of the funds for the School Connectivity Initiative may be used for ~~this and subsequent fiscal years~~ the 2010-2011 fiscal year by the Office of the Governor for education innovation and the education E-learning portal. These funds may be used to provide services to coordinate e-learning activities across all education agencies and to support the operating of the E-learning portal."

**SECTION 7.10.(b)** Section 7.6(a) of S.L. 2008-107, as rewritten by Section 7.12(b) of S.L. 2009-451, reads as rewritten:

"**SECTION 7.6.(a)** Up to three hundred thousand dollars ($300,000) may be transferred annually through June 30, ~~2013,~~ 2011, to the Friday Institute at North Carolina State University to evaluate the effectiveness of using technology and its impact on 21st Century Teaching and Learning outcomes approved by the State Board of Education. The Friday Institute shall report annually to the State Board of Education on the evaluation results."

**SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

**SECTION 7.12.(a)** Eligibility. – All county school administrative units with an average daily membership less than the maximum small school system average daily membership shall be eligible for small school system supplemental funding. For the 2011-2012 and 2012-2013 fiscal years, the maximum small school system average daily membership shall be 3,200 students.

**SECTION 7.12.(b)** Allotment. – Each eligible county school administrative unit shall receive a dollar allotment equal to the product of the following:

(1) A per student funding factor, equal to the product of the following:
   a. One, minus the local school administrative unit's average daily membership divided by the maximum small school system average daily membership.
   b. The maximum small school system dollars per student.
(2) The average daily membership of the eligible county school administrative unit.

For the 2011-2012 and 2012-2013 fiscal years, the maximum small school system dollars per student shall be two thousand dollars ($2,000).

**SECTION 7.12.(c)** Phase-Out Provisions. –

(1) If a local school administrative unit becomes ineligible for funding under this formula, funding for that unit shall be phased out over a five-year period. Funding for such local administrative units shall be reduced in equal increments in each of the five years after the local administrative unit becomes ineligible. Funding shall be eliminated in the fifth fiscal year after the local administrative unit becomes ineligible.
(2) Allotments for eligible local school administrative units shall not be reduced by more than twenty percent (20%) in any fiscal year.

**ELIMINATION OF REPORTING REQUIREMENTS**

**SECTION 7.13.(a)** G.S. 115C-12(25) reads as rewritten:

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

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

...

(25) Duty to Report to Joint Legislative Education Oversight Committee. – Upon the request of the Joint Legislative Education Oversight Committee, the State Board shall examine and evaluate issues, programs, policies, and fiscal information, and shall make reports to that Committee. Furthermore, beginning October 15, 1997, and annually thereafter, the State Board shall submit reports to that Committee regarding the continued implementation of Chapter 716 of the 1995 Session Laws, 1996 Regular Session. Each report shall include information regarding the composition and activity of assistance teams, schools that received incentive awards, schools identified as low-performing, ~~school improvement plans found to significantly improve student performance,~~ personnel actions taken in low-performing schools, and recommendations for additional legislation to improve student performance and increase local flexibility."

**SECTION 7.13.(b)** G.S. 115C-47(38) is repealed.

**SECTION 7.13.(c)** G.S. 115C-84.2(a)(1) reads as rewritten:

"(1) **(See notes)** A minimum of 180 days and 1,000 hours of instruction covering at least nine calendar months. The local board shall designate when the 180 instructional days shall occur. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the administrative unit. ~~Local boards may approve school improvement plans that include days with varying amounts of instructional time.~~ If school is closed early due to inclement weather, the day and the scheduled amount of instructional hours may count towards the required minimum to the extent allowed by State Board policy. The school calendar shall include a plan for making up days and instructional hours missed when schools are not opened due to inclement weather."

**SECTION 7.13.(d)** G.S. 115C-84.2(a)(5) reads as rewritten:

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

**SECTION 7.13.(e)** G.S. 115C-98(b2) reads as rewritten:

"(b2) Local boards of education ~~may:~~

~~(1)~~ ~~Select,~~ may select, procure, and use textbooks that have not been adopted by the State Board of Education for use throughout the local school administrative unit for selected grade levels and ~~courses; and~~courses.

~~(2)~~ ~~Approve school improvement plans developed under G.S. 115C-105.27 that include provisions for using textbooks that have not been adopted by the State Board of Education for selected grade levels and courses.~~

All textbook contracts made under this subsection shall include a clause granting to the local board of education the license to produce braille, large print, and audiocassette tape copies of the textbooks for use in the local school administrative unit."

**SECTION 7.13.(f)** G.S. 115C-105.20(b)(5) is repealed.

**SECTION 7.13.(g)** G.S. 115C-105.25 reads as rewritten:

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

...

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

(1) ~~In accordance with a school improvement plan accepted under G.S. 115C-105.27,~~ State funds allocated for teacher assistants may be transferred only for personnel (i) to serve students only in kindergarten through third grade, ~~or~~ (ii) to serve students primarily in kindergarten through third grade when the personnel are assigned to an elementary school to serve the whole school ~~school. Funds allocated for teacher assistants may be transferred to reduce class size~~ or (iii) to reduce the student-teacher ratio in kindergarten through third grade so long as the affected teacher assistant positions are not ~~filled when the plan is amended or approved by the building-level staff entitled to vote on the plan or the affected teacher assistant positions are not expected to be filled on the date the plan is to be implemented.~~ filled. Any State funds appropriated for teacher assistants that were converted to certificated teachers before July 1, 1995, in accordance with Section 1 of Chapter 986 of the 1991 Session Laws, as rewritten by Chapter 103 of the 1993 Session Laws, may continue to be used for certificated teachers.

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

...

(8) Funds allocated for academically or intellectually gifted students may be used only (i) for academically or intellectually gifted students; (ii) to implement the plan developed under G.S. 115C-150.7; or (iii) in accordance with an accepted school improvement plan, for any purpose so long as that school demonstrates it is providing appropriate services to academically or intellectually gifted students assigned to that school in accordance with the local plan developed under G.S. 115C-150.7.

...."

**SECTION 7.13.(h)** G.S. 115C-105.26 reads as rewritten:

"**§ 115C-105.26. Waivers of State laws, rules, or policies.**

(a) ~~When included as part of a school improvement plan accepted under G.S. 115C-105.27, local~~ Local boards of education shall submit requests for waivers of State laws, rules, or policies to the State Board of Education. A request for a waiver shall (i) identify the school making the request, (ii) identify the State laws, rules, or policies that inhibit the school's ability to improve student performance, (iii) set out with specificity the circumstances under which the waiver may be used, and (iv) explain how the requested waiver will permit the school to improve student performance. Except as provided in subsection (c) of this section, the State Board shall grant waivers only for the specific schools for which they are requested and shall be used only under the specific circumstances for which they are requested.

(b) ~~When requested as part of a school improvement plan, the~~ The State Board of Education may grant waivers of:

(1) State laws pertaining to class size and teacher certification; and

(2) State rules and policies, except those pertaining to public school State salary schedules and employee benefits for school employees, the instructional program that must be offered under the Basic Education Program, the system of employment for public school teachers and administrators set out in G.S. 115C-287.1 and G.S. 115C-325, health and safety codes, compulsory attendance, the minimum lengths of the school day and year, and the Uniform Education Reporting System.

...."

**SECTION 7.13.(i)** G.S. 115C-105.27 is repealed.

**SECTION 7.13.(j)** G.S. 115C-105.30 is repealed.

**SECTION 7.13.(k)** G.S. 115C-105.31(b)(3) is repealed.

**SECTION 7.13.(l)** G.S. 115C-105.32 is repealed.

**SECTION 7.13.(m)** G.S. 115C-105.33 reads as rewritten:

"**§ 115C-105.33. Safe and orderly schools.**

A ~~school improvement team or a~~ parent organization at a school may ask the local board of education to provide assistance in promoting or restoring safety and an orderly learning environment at a school. The ~~school improvement team or~~ parent organization shall file a copy of this request with the State Board. If the local board fails to provide adequate assistance to the school, then the ~~school improvement team or~~ parent organization may ask the State Board to provide an assistance team to the school.

The State Board may provide an assistance team, established under G.S. 115C-105.38, to a school in order to promote or restore safety and an orderly learning environment at that school if one of the following applies:

(1) The local board of education or superintendent requests that the State Board provide an assistance team to a school and the State Board determines that the school needs assistance.

(2) The State Board determines within 10 days after its receipt of the request for assistance from a ~~school improvement team or~~ parent organization of a school that the school needs assistance and that the local board has failed to provide adequate assistance to that school.

If an assistance team is assigned to a school under this section, the team shall spend a sufficient amount of time at the school to assess the problems at the school, assist school personnel with resolving those problems, and work with school personnel and others to develop a long-term plan for restoring and maintaining safety and an orderly learning environment at the school. The assistance team also shall make recommendations to the local board of education and the superintendent on actions the board and the superintendent should consider taking to resolve problems at the school. These recommendations shall be in writing and are public records. If an assistance team is assigned to a school under this section, the powers given to the State Board and the assistance team under G.S. 115C-105.38 and G.S. 115C-105.39 shall apply as if the school had been identified as low-performing under this Article."

**SECTION 7.13.(n)** G.S. 115C-105.37A(a) reads as rewritten:

"(a) Definition of Continually Low-Performing Schools. – A continually low-performing school is a school that has received State-mandated assistance and has been designated by the State Board as low performing for at least two of three consecutive years. ~~If the State Board identifies a school as continually low performing:~~

~~(1) The school improvement team at that school shall review its school improvement plan to ensure consistency with the plan adopted pursuant to G.S. 115C-105.38(b)(3), and~~

~~(2) The plan must be reviewed and approved by the State Board of Education.~~"

**SECTION 7.13.(o)** G.S. 115C-105.38(b)(6) reads as rewritten:

"(6) Report, as appropriate, to the local board of education, the community, and the State Board on the school's progress. ~~If an assistance team determines that an accepted school improvement plan developed under G.S. 115C-105.27 is impeding student performance at a school, the team may recommend to the local board that it vacate the relevant portions of that plan and direct the school to revise those portions.~~"

**SECTION 7.13.(p)** G.S. 115C-105.47(b)(13) is repealed.

**SECTION 7.13.(q)** G.S. 115C-174.12(a)(3) reads as rewritten:

"(3) No school shall participate in more than two field tests at any one grade level during a school year ~~unless that school volunteers, through a vote of its school improvement team, to participate in an expanded number of field tests.~~without the approval of the principal of the school."

**SECTION 7.13.(r)** G.S. 115C-238.31(a) reads as rewritten:

"(a) Local school administrative units are encouraged to implement extended services programs that will expand students' opportunities for educational success through high-quality, integrated access to instructional programming during nonschool hours. ~~Extended services programs may be incorporated into school improvement plans developed in accordance with G.S. 115C-105.27.~~ Calendar alternatives include, but are not limited to, after-school hours, before-school hours, evening school, Saturday school, summer school, and year-round school.

Instructional programming may include, but is not limited to, tutoring, direct instruction, enrichment activities, study skills, and reinforcement projects."

**SECTION 7.13.(s)** G.S. 115C-288(h) reads as rewritten:

"(h) To Make Available School ~~Budgets and School Improvement Plans.~~ Budgets. – The principal shall maintain a copy of the school's current ~~budget and school improvement plan, including any amendments to the plan,~~ budget and shall allow parents of children in the school and other interested persons to review and obtain such documents in accordance with Chapter 132 of the General Statutes."

**SECTION 7.13.(t)** G.S. 115C-288(l) is repealed.

**SECTION 7.13.(u)** G.S. 143B-146.6(b)(6) reads as rewritten:

"(6) Report, as appropriate, to the Secretary, the State Board, and the parents on the school's progress. ~~If an assistance team determines that an accepted school improvement plan developed under G.S. 143B-146.12 is impeding student performance at a school, the team may recommend to the Secretary that he vacate the relevant portions of that plan and direct the school to revise those portions.~~"

**SECTION 7.13.(v)** G.S. 143B-146.12 is repealed.

**SECTION 7.13.(w)** G.S. 115C-47(32a) reads as rewritten:

"(32a) To Establish Alternative Learning Programs and Develop Policies and Guidelines. – Each local board of education shall establish at least one alternative learning program and shall adopt guidelines for assigning students to alternative learning programs. These guidelines shall include (i) a description of the programs and services to be provided, (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision, and (iii) strategies for providing alternative learning programs, when feasible and appropriate, for students who are subject to long term suspension or expulsion. In developing these guidelines, local boards shall consider the State Board's standards developed under G.S. 115C-12(24). ~~Upon adoption of policies and guidelines under this subdivision, local boards are encouraged to incorporate them in their safe school plans developed under G.S. 115C-105.47.~~

The General Assembly urges local boards to adopt policies that prohibit superintendents from assigning to any alternative learning program any professional public school employee who has received within the last three years a rating on a formal evaluation that is less than above standard.

Notwithstanding this subdivision, each local board shall adopt policies based on the State Board's standards developed under G.S. 115C-12(24). These policies shall apply to any new alternative learning program or alternative school that is implemented beginning with the 2006-2007 school year. Local boards of education are encouraged to apply these standards to alternative learning programs and alternative schools implemented before the 2006-2007 school year.

Local boards shall assess on a regular basis whether the unit's alternative schools and alternative learning programs comply with the State Board's standards developed under G.S. 115C-12(24) and whether they incorporate best practices for improving student academic performance and reducing disruptive behavior, are staffed with professional public school employees who are well trained and provided with appropriate staff development, are organized to provide coordinated services, and provide students with high quality and rigorous academic instruction."

**SECTION 7.13.(x)** G.S. 115C-105.27(b)(2) reads as rewritten:

"(2) Shall include a plan to address school safety and discipline ~~concerns in accordance with the safe school plan developed under Article 8C of this Chapter;~~concerns."

**SECTION 7.13.(y)** G.S. 115C-105.46 reads as rewritten:

"**§ 115C-105.46. State Board of Education responsibilities.**

In order to implement this Article, the State Board of Education:

~~(1) Shall adopt guidelines for developing local plans under G.S. 115C-105.47.~~

~~(2) Shall provide, in cooperation with the Board of Governors of The University of North Carolina, ongoing technical assistance to the local school administrative units in the development, implementation, and evaluation of their local plans under G.S. 115C-105.47.~~

~~(3) May require a local board of education to withhold the salary of any administrator or other employee of a local school administrative unit who delays or refuses to prepare and implement local safe school plans in accordance with G.S. 115C-105.47.~~

~~(4) May revoke the certificate of the superintendent, pursuant to G.S. 115C-274(c), for failure to fulfill the superintendent's duties under a local safe school plan.~~

(5) Shall adopt policies that define who is an at-risk student."

**SECTION 7.13.(z)** G.S. 115C-105.47 is repealed.

**SECTION 7.13.(aa)** G.S. 115C-102.6C is repealed.

**SECTION 7.13.(bb)** G.S. 115C-102.6D(d) is repealed.

**SECTION 7.13.(cc)** G.S. 115C-102.7 reads as rewritten:

"**§ 115C-102.7. Monitoring and evaluation of State and local school system technology plans; reports.**

(a) The Department of Public Instruction shall monitor and evaluate the development and implementation of the State ~~and local school system technology plans.~~ technology plan. The evaluation shall consider the effects of technology on student learning, the effects of technology on students' workforce readiness, the effects of technology on teacher productivity, and the cost-effectiveness of the technology.

(a1) Repealed by Session Laws 1997-18, s. 15(k).

(b) Repealed by Session Laws 2009-451, s. 7.31, effective July 1, 2009.

~~(c) The Department of Public Instruction shall randomly check local school system technology plans to ensure that local school administrative units are implementing their plans as approved. The Department shall report to the State Board of Education on which local school administrative units are not complying with their plans. The report shall include the reasons these local school administrative units are out of compliance and a recommended plan of action to support each of these local school administrative units in carrying out their plans.~~"

**SECTION 7.13.(dd)** Section 7.61(b) of S.L. 2005-276, as rewritten by Section 7.22(d) of S.L. 2010-31, is repealed.

**SECTION 7.13.(ee)** G.S. 115C-105.41 is repealed.

**SECTION 7.13.(ff)** The State Board of Education shall not require more than five semester hours or seven and one-half units of renewal credits in order to renew a North Carolina Standard Professional 2 professional educator's license.

**SCHOOL BUILDING ADMINISTRATION**

**SECTION 7.14.(a)** A school with less than 100 students in final average daily membership is not entitled to 12 months of employment for a principal.

**SECTION 7.14.(b)** Local school administrative units may transfer funds for school building administration for any purpose, not otherwise prohibited by the State Board of Education's ABC transfer policy, by submitting an ABC Transfer Form to the Department of Public Instruction. For funds related to principal positions, the salary transferred shall be based on the first step of the principal III salary schedule. For funds related to assistant principal months of employment, the salary transferred shall be based on the first step of the assistant principal salary schedule. No local school administrative unit shall convert certified position allotments to dollars in order to hire the same type of position.

**SECTION 7.14.(c)** Subsection (a) of this section applies only to schools created after July 1, 2011.

**ELIMINATION OF TEACHERS FOR GEOGRAPHICALLY ISOLATED SCHOOLS**

**SECTION 7.16.** Section 7.26 of S.L. 2009-451 is repealed.

**SCHOOL CALENDAR PILOT PROGRAM**

**SECTION 7.17.** The State Board of Education shall establish a school calendar pilot program in the Wilkes County Schools, the Montgomery County Schools, and the Stanly County Schools. The purpose of the pilot program is to determine whether and to what extent a

local school administrative unit can save money during this extreme fiscal crisis by consolidating the school calendar.

Notwithstanding G.S. 115C-84.2(a)(1), the school calendar for the 2011-2012 calendar year for the pilot school systems shall include a minimum of 185 days or 1,025 hours of instruction covering at least nine calendar months. Notwithstanding G.S. 115C-84.2(d), the opening date for students in pilot school systems may be before August 25.

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

The State Board of Education shall report to the Joint Legislative Education Oversight Committee by March 15, 2012, on the administration of the pilot program, cost savings realized by it, and its impact on student achievement.

**BUDGET REDUCTIONS/DEPARTMENT OF PUBLIC INSTRUCTION**

**SECTION 7.19.(a)** Notwithstanding G.S. 143C-6-4 or Section 7.14 of S.L. 2009-451, the Department of Public Instruction may, after consultation with the Office of State Budget and Management and the Fiscal Research Division, reorganize if necessary to implement the budget reductions set out in this act. This consultation shall occur prior to requesting budgetary and personnel changes through the budget revision process. The Department shall provide a current organization chart in the consultation process. The Department shall report to the Joint Legislative Commission on Governmental Operations on any reorganization.

**SECTION 7.19.(b)** The Department of Public Instruction shall not increase the number of State-funded positions in any Department of Public Instruction divisions identified for reductions in this act.

**SECTION 7.19.(c)** In implementing budget reductions under this act, the Department of Public Instruction shall make no reduction in funding or positions for the Positive Behavioral Support program.

**LEA BUDGET ADJUSTMENT**

**SECTION 7.20.(a)** Within 14 days of the date this act becomes law, the State Board of Education shall notify each local school administrative unit and charter school of the amount the unit or charter school must reduce from the State General Fund appropriations. The State Board shall determine the amount of the reduction for each unit and charter school on the basis of average daily membership.

**SECTION 7.20.(b)** Each unit or charter school shall report to the Department of Public Instruction on the flexibility budget reductions it has identified for the unit within 30 days of the date this act becomes law.

**LEA BUDGETARY FLEXIBILITY**

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

**SECTION 7.21.(b)** For fiscal years 2011-2012 and 2012-2013, local school administrative units shall make every effort to reduce spending whenever and wherever such budget reductions are appropriate with the goal of protecting direct classroom services, such as classroom teachers. In making reductions, local school administrative units shall first consider reductions to central office administration and other administrative functions. Notwithstanding G.S. 115C-301 or any other law, local school administrative units shall have the maximum flexibility to use allotted teacher positions to maximize student achievement in grades 4-12. Class size requirements in grades K-3 shall remain unchanged.

**NORTH CAROLINA VIRTUAL PUBLIC SCHOOLS**

**SECTION 7.22.(a)** The North Carolina Virtual Public School (NCVPS) program shall report to the State Board of Education and shall maintain an administrative office at the Department of Public Instruction.

**SECTION 7.22.(b)** The Director of NCVPS shall ensure that students residing in rural and low-wealth county local school administrative units have access to e-learning course offerings in order to expand available instructional opportunities. E-learning instructional opportunities shall include courses required as part of the standard course of study for high school graduation and AP offerings not otherwise available.

**SECTION 7.22.(c)** Section 7.4 of S.L. 2010-31 is repealed.

**SECTION 7.22.(d)** The State Board of Education shall take the following steps to implement an allotment formula for NCVPS beginning with the 2011-2012 school year:

(1) Project NCVPS student enrollment by semester and year-long course types for each local school administrative unit and charter school.

(2) Establish a per course teacher payment structure for the instructional costs of NCVPS. In establishing this payment structure, the Board shall consider the following:

a. The payment structure is based on a total compensation analysis to ensure NCVPS teacher pay has parity with similar programs. The total compensation analysis shall take into account salaries, benefits, and work effort to ensure valid comparisons between occupations.

b. The effects any change in NCVPS teacher payments may have on the attraction and retention of NCVPS teachers.

(3) Develop a per student fee structure for in-State students that is based on the per course teacher pay structure. The fee structure for in-State students shall ensure that the projected cost for local school administrative units and charter schools equals the projected instructional cost for NCVPS courses.

(4) Multiply the per course fees for in-State students by the projected enrollment by course type to determine the total instructional cost for each local school administrative unit and charter school.

(5) Transfer a dollar amount equal to seventy-five percent (75%) of the local school administrative unit's or charter school's projected instructional cost from the classroom teacher allotment to NCVPS.

(6) No later than February 21 of each year, calculate the actual instructional cost for each local school administrative unit and charter school based upon actual NCVPS enrollment as of that date.

(7) Subtract the amount transferred pursuant to subdivision (5) of this subsection from the actual instructional cost for each unit or charter school and transfer the remaining dollar amount owed, up to a maximum of one hundred percent (100%) of the projected cost.

(8) Develop and implement a policy regarding returning funds to local school administrative units and charter schools in cases where the amount transferred pursuant to subdivision (5) of this subsection exceeds the actual instructional costs.

NCVPS shall use funds transferred to it to provide the NCVPS program at no cost to all students in North Carolina who are enrolled in North Carolina's public schools, Department of Defense schools, and schools operated by the Bureau of Indian Affairs.

**SECTION 7.22.(e)** In establishing the fee structure and payment structure for NCVPS, the State Board shall consider recommendations from the eLearning Commission and the NCVPS Advisory Board.

**SECTION 7.22.(f)** The State Board shall establish a separate per student tuition for out-of-state students, home-schooled students, and private school students, which shall be adjusted upward from the in-State student fee structure by an amount determined appropriate by the State Board.

**SECTION 7.22.(g)** NCVPS shall develop a revenue-generating plan for the sale of courses to out-of-state educational entities. NCVPS shall submit its plan to the State Board by September 1, 2011.

**SECTION 7.22.(h)** Beginning in 2011, the Director of NCVPS shall submit an annual report on NCVPS to the State Board of Education no later than December 1 of each year. The report shall use data from the previous fiscal year and shall include statistics on

actual versus projected costs to local school administrative units and charter schools, student enrollment, virtual teacher salaries, and measures of academic achievement.

The Director of NCVPS shall continue to ensure the following:

(1) Course quality standards are established and met.

(2) All e-learning opportunities other than virtual charter schools offered by State-funded entities to public school students are consolidated under the NCVPS program, eliminating course duplication.

(3) All courses offered through NCVPS are aligned to the North Carolina Standard Course of Study.

**SECTION 7.22.(i)** The State Board of Education shall reduce each local school administrative unit's or charter school's classroom teacher allotment, or other allotment, as determined by the State Board of Education, on the basis of ADM in grades 6-12 to provide the sum of two million eight hundred sixty-six thousand nine hundred twenty-three dollars ($2,866,923) for the State-level operations and administration of NCVPS for the 2011-2012 fiscal year. The allotment reduction for State-level operations and administration shall continue in future fiscal years and be adjusted annually based upon the percentage growth in NCVPS enrollment, ensuring the expansion of services due to increased virtual student enrollment.

**SECTION 7.22.(j)** For fiscal year 2011-2012, the State Board of Education shall reduce each local school administrative unit's or charter school's classroom teacher allotment, or other allotment, as determined by the State Board of Education, on the basis of ADM in grades 6-12 to provide the sum of two million dollars ($2,000,000) in order to create an NCVPS enrollment reserve. The NCVPS enrollment reserve shall be used to cover the NCVPS instructional costs of local school administrative units or charter schools with enrollments exceeding projected NCVPS enrollment.

Beginning in fiscal year 2012-2013, and annually thereafter, the State Board of Education shall reduce each local school administrative unit's or charter school's classroom teacher allotment, or other allotment, as determined by the State Board of Education, on the basis of ADM in grades 6-12 an amount that is the difference between two million dollars ($2,000,000) and the balance of the NCVPS enrollment reserve.

Amounts available in the NCVPS enrollment reserve shall not revert.

**SECTION 7.22.(k)** The State Board shall use only funds provided through the North Carolina Virtual Public Schools Allotment Formula and the NCVPS enrollment reserve as set forth in this section to fund instructional costs of NCVPS.

**PERFORMANCE-BASED REDUCTIONS IN FORCE**

**SECTION 7.23.(a)** Local school administrative units shall adopt a Reduction in Force policy that includes the following criteria:

(1) In determining which positions shall be subject to a reduction in force, a local school administrative unit shall consider the following:

a. Structural considerations, such as identifying positions, departments, courses, programs, operations, and other areas where there are (i) less essential, duplicative, or excess personnel; (ii) job responsibility and/or position inefficiencies; (iii) opportunities for combined work functions; and/or (iv) decreased student or other demands for curriculum, programs, operations, or other services.

b. Organizational considerations, such as anticipated organizational needs of the school system and program/school enrollment.

(2) In determining which employees in similar positions shall be subject to a reduction in force, a local school administrative unit shall consider work performance.

Each local school administrative unit shall have this policy in place on or before July 15, 2011.

**SECTION 7.23.(b)** G.S. 115C-325(e)(2) reads as rewritten:

"(2) Reduction in Force. – Before recommending to a board the dismissal or demotion of the career employee pursuant to G.S. 115C-325(e)(1)l., the superintendent shall give written notice to the career employee by certified mail or personal delivery of his intention to make such recommendation and shall set forth as part of his recommendation the grounds upon which he believes such dismissal or demotion is justified. The notice shall include a

statement to the effect that if the career employee within 15 days after receipt of the notice requests a review, he shall be entitled to have the proposed recommendations of the superintendent reviewed by the board. Within the 15-day period after receipt of the notice, the career employee may file with the superintendent a written request for a hearing before the board within 10 days. If the career employee requests a hearing before the board, the hearing procedures provided in G.S. 115C-325(j3) shall be followed. If no request is made within the 15-day period, the superintendent may file his recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if there is one, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such dismissal. Provisions of this section which permit a hearing by a case manager shall not apply to a dismissal or demotion recommended pursuant to G.S. 115C-325(e)(1)l.

When a career employee is dismissed pursuant to G.S. 115C-325(e)(1)l. above, his name shall be placed on a list of available career employees to be maintained by the board. ~~Career employees whose names are placed on such a list shall have a priority on all positions in which they acquired career status and for which they are qualified which become available in that system for the three consecutive years succeeding their dismissal. However, if the local school administrative unit offers the dismissed career employee a position for which he is certified and he refuses it, his name shall be removed from the priority list.~~"

**TEACHING FELLOWS ADMINISTRATIVE REDUCTION**

**SECTION 7.24.** G.S. 115C-363.23A(f) reads as rewritten:

"**§ 115C-363.23A. Teaching Fellows Program established; administration.**

...

(f) All funds appropriated to or otherwise received by the Teaching Fellows Program for scholarships, all funds received as repayment of scholarship loans, and all interest earned on these funds, shall be placed in a revolving fund. This revolving fund shall be used for scholarship loans granted under the Teaching Fellows Program. With the prior approval of the General Assembly in the Current Operations Appropriations Act, the revolving fund may also be used for campus and summer program support, and costs related to disbursement of awards and collection of loan repayments.

The Public School Forum, as administrator for the Teaching Fellows Program, may use up to ~~eight hundred ten thousand dollars ($810,000)~~six hundred thousand dollars ($600,000) annually from the fund balance for costs associated with administration of the Teaching Fellows Program."

**RESIDENTIAL SCHOOLS**

**SECTION 7.25.(a)** The General Assembly finds that the operation of the Eastern North Carolina School for the Deaf, the Governor Morehead School for the Blind, and the North Carolina School for the Deaf (collectively, the "residential schools") no longer meets the needs of the populations they serve in an efficient and effective manner, and that current levels of utilization of the residential schools can be accommodated with two schools. No later than January 15, 2012, the Department shall report to the Joint Legislative Education Oversight Committee of the General Assembly the residential school it has decided to close and the Department's plan for consolidating the programs with those at the two remaining schools. The Department shall base its choice of the residential school to be closed on the following considerations:

(1) Minimization of impact on services to deaf and blind students currently served by the residential schools.

(2) Minimization of costs of modifications at the two remaining residential schools to accommodate students from the closed school.

(3) Maximization of funds generated or net savings to the State from costs avoided due to the closure of one residential school and the sale or transfer to other State agencies of the school campus and other physical assets.

Effective July 1, 2012, the Department of Public Instruction shall carry out the closure and consolidation described in its report.

**SECTION 7.25.(b)** The Department of Public Instruction shall ensure that the residential and instructional schedules for the residential schools that were in effect before February 8, 2010, shall remain in effect unless the General Assembly approves a material change to the instructional week. Residential students shall have the opportunity to arrive at their respective schools on the evening of the day before commencement of academic instruction for the week. The Department shall also maintain summer school programming at the residential schools in substantially the same manner as in prior years and shall make no material changes to summer school programming without the approval of the General Assembly.

**SECTION 7.25.(c)** The Department of Public Instruction may create a principal position at each residential school not currently assigned a principal position from funds appropriated in this act for the residential schools.

**SECTION 7.25.(d)** The position of superintendent for the residential schools within the Department of Public Instruction is eliminated. The Department shall designate one of the directors of the residential schools to serve as the superintendent for the residential schools. Of funds previously appropriated to the Department for the position of superintendent for the residential schools, the sum of twenty thousand dollars ($20,000) shall be used to supplement the salary of the director who also serves as superintendent of residential schools. The remaining funds shall be used to offset other reductions to the residential schools made in this act.

**SECTION 7.25.(e)** G.S. 115C-325(p) reads as rewritten:

"(p) Section Applicable to Certain Institutions. – Notwithstanding any law or regulation to the contrary, this section shall apply to all persons employed in teaching and related educational classes in the schools and institutions of the Departments of Health and Human Services, Public Instruction, Correction, or Juvenile Justice and Delinquency Prevention regardless of the age of the students."

**DEPARTMENT OF PUBLIC INSTRUCTION RECEIPTS**

**SECTION 7.27.** Notwithstanding G.S. 143C-6-4(b)(3), the Department of Public Instruction may realign receipts among the following General Fund purpose codes on a recurring basis through the budget certification process for the sole purpose of correctly aligning the certified budget with the appropriate purpose or programs as defined in G.S. 143C-1-1(d)(23): 1000, 1100, 1300, 1330, 1430, 1500, 1600, 1640, and 1660.

**SCHOOL BUS PURCHASES**

**SECTION 7.28.(a)** G.S. 115C-249 reads as rewritten:

**"§ 115C-249. Purchase and maintenance of school buses, materials and supplies.**

...

~~(c) Any funds appropriated from time to time by the General Assembly for the purchase of school buses or service vehicles shall be allocated by the State Board of Education to the respective local boards of education in accordance with the requirements of such boards as determined by the State Board of Education, and thereupon shall be paid over to the respective local boards of education in accordance with such allocation.~~

(d) The title to any ~~additional or replacement~~ school bus or service vehicle purchased pursuant to the provisions of this section, shall be taken in the name of the board of education of such local school administrative unit, and such bus shall in all respects be maintained and operated pursuant to the provisions of this ~~Article in the same manner as any other public school bus.~~Article.

(e) It shall be the duty of the county board of education to provide adequate buildings and equipment for the storage and maintenance of all school buses and service vehicles owned or operated by the board of education of any local school administrative unit in such county. It shall be the duty of the tax-levying authorities of such county to provide in its capital outlay budget for the construction or acquisition of such buildings and equipment as may be required for this purpose.

~~(f) In the event of the damage or destruction of any school bus or service vehicle by fire, collision, or otherwise, the board of education of the local school administrative unit which shall own or operate such bus or service vehicle may apply to the State Board of Education for funds with which to replace it. If the State Board of Education finds that such bus or service vehicle has been destroyed or damaged to the extent that it cannot be made suitable for further use, and if the State Board of Education finds that the replacement of such bus or service vehicle is necessary in order to enable such local school administrative unit to operate properly its school bus transportation system, the State Board of Education shall allot to the board of education of such local school administrative unit from the funds now held by the State Board of Education for the replacement of school buses or service vehicles, or from funds hereafter appropriated by the General Assembly for that purpose, a sum sufficient to purchase a new school bus or service vehicle to be used as a replacement for such damaged or destroyed bus or service vehicle and upon such allocation such sum shall be paid over to or for the account of the board of education of such local school administrative unit for such purpose.~~

(g) Repealed by Session Laws 2003-147, s. 3, effective for a local school administrative unit when the unit is certified as being E-Procurement compliant, or April 1, 2004, whichever occurs first.

~~(h) Appropriations by the General Assembly for the purchase of public school buses shall not revert to the General Fund. Any unexpended portion of those appropriations shall at the end of each fiscal year be transferred to a reserve account and be held, together with any other funds appropriated for the purpose, for the purchase of public school buses.~~"

**SECTION 7.28.(b)** G.S. 115C-426(f)(4) reads as rewritten:

"(f) The capital outlay fund shall include appropriations for:

...

(4) The acquisition of school ~~buses as additions to the fleet.~~buses.

...."

**SECTION 7.28.(c)** During the 2011-2012 fiscal year, local boards of education shall use allotments for replacement school buses only for purchases during that fiscal year or for 2011-2012 fiscal year payments for purchase financing contracts entered into during prior years, and shall not use the funds to enter into a purchase financing contract that will require State funding in future fiscal years.

**SECTION 7.28.(d)** Subsections (a) and (b) of this section take effect July 1, 2012.

**INCREASE NUMBER OF INSTRUCTIONAL DAYS**

**SECTION 7.29.** G.S. 115C-84.2 reads as rewritten:

"**§ 115C-84.2. School calendar.**

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

(1) **(See notes)** A minimum of ~~180~~185 days and ~~1,000~~1,025 hours of instruction covering at least nine calendar months. The local board shall designate when the ~~180~~185 instructional days shall occur. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the administrative unit. Local boards may approve school improvement plans that include days with varying amounts of instructional time. If school is closed early due to inclement weather, the day and the scheduled amount of instructional hours may count towards the required minimum to the extent allowed by State Board policy. The school calendar shall include a plan for making up days and instructional hours missed when schools are not opened due to inclement weather.

(1a) Repealed by Session Laws 2004-180, s. 1, effective August 9, 2004.

(2) A minimum of 10 annual vacation leave days.

(3) The same or an equivalent number of legal holidays occurring within the school calendar as those designated by the State Personnel Commission for State employees.

~~(4) Five days, as designated by the local board, for use as teacher workdays. These days shall be protected to allow teachers to complete instructional and classroom administrative duties. The local school administrative unit shall~~

~~not impose any additional tasks on these days. The local board shall schedule one of these days at the beginning of the school year and one at the end of each academic quarter.~~

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

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

Local boards shall designate at least ~~seven~~ two days scheduled under ~~subdivisions (4) and~~ subdivision (5) of this subsection as days on which teachers may take accumulated vacation leave. Local boards may designate the remaining days scheduled in ~~subdivisions (4) and~~ subdivision (5) of this subsection as days on which teachers may take accumulated vacation leave, but local boards shall give teachers at least 14 calendar days' notice before requiring a teacher to work instead of taking vacation leave on any of these days. A teacher may elect to waive this notice requirement for one or more of these days.

(b) Limitations. – The following limitations apply when developing the school calendar:

(1) The total number of teacher workdays for teachers employed for a 10 month term shall not exceed 195 days.

(2) The calendar shall include at least 42 consecutive days when teacher attendance is not required unless: (i) the school is a year-round school; or (ii) the teacher is employed for a term in excess of 10 months. At the request of the local board of education or of the principal of a school, a teacher may elect to work on one of the 42 days when teacher attendance is not required in lieu of another scheduled workday.

(3) School shall not be held on Sundays.

(4) Veterans Day shall be a holiday for all public school personnel and for all students enrolled in the public schools.

(c) Emergency Conditions. – During any period of emergency in any section of the State where emergency conditions make it necessary, the State Board of Education may order general, and if necessary, extended recesses or adjournment of the public schools.

(d) Opening and Closing Dates. – Local boards of education shall determine the dates of opening and closing the public schools under subdivision (a)(1) of this section. Except for year-round schools, the opening date for students shall not be before August 25, and the closing date for students shall not be after June 10. On a showing of good cause, the State Board of Education may waive this requirement to the extent that school calendars are able to provide sufficient days to accommodate anticipated makeup days due to school closings. A local board may revise the scheduled closing date if necessary in order to comply with the minimum requirements for instructional days or instructional time. For purposes of this subsection, the term "good cause" means either that:

(1) schools in any local school administrative unit in a county have been closed eight days per year during any four of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations; or

(2) schools in any local school administrative unit in a county have been closed for all or part of eight days per year during any four of the last 10 years because of severe weather conditions. For purposes of this subdivision, a school shall be deemed to be closed for part of a day if it is closed for two or more hours.

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

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

(e) Nothing in this section prohibits a local board of education from offering supplemental or additional educational programs or activities outside the calendar adopted under this section."

**TESTING PROGRAM**

**SECTION 7.30.(a)** G.S. 115C-174.11 reads as rewritten:

"**§ 115C-174.11. Components of the testing program.**

(a) Assessment Instruments for First and Second Grades. – The State Board of Education shall adopt and provide to the local school administrative units developmentally appropriate individualized assessment instruments consistent with the Basic Education Program for the first and second grades, rather than standardized tests. Local school administrative units may use these assessment instruments provided to them by the State Board for first and second grade students, and shall not use standardized tests except as required as a condition of receiving federal grants.

(b) Repealed by Session Laws 2009-451, s. 7.20(c), effective July 1, 2009.

(c) Annual Testing Program.

(1) The State Board of Education shall adopt the tests for grades three through 12 that are required by federal law or as a condition of a federal grant. These tests shall be designed to measure progress toward reading, communication skills, and mathematics for grades three through eight, and toward competencies for grades nine through 12. Students who do not pass the tests adopted for eighth grade shall be provided remedial instruction in the ninth grade.

(2) If the State Board of Education finds that additional testing in grades three through 12 is desirable to allow comparisons with national indicators of student achievement, that testing shall be conducted with the smallest size sample of students necessary to assure valid comparisons with other states.

(3) The State Board of Education shall continue to participate in the development of the Common Core State Standards in conjunction with the consortium of other states, review all national assessments developed by both multistate consortia, and implement the assessments that the State Board deems most appropriate to assess student achievement on the Common Core State Standards.

(4) To the extent funds are made available, the State Board shall plan for and require the administration of the ACT test for all students in the eleventh grade unless the student has already taken a comparable test and scored at or above a level set by the State Board.

(d) Except as provided in ~~subdivision (2) of~~ subsection (c) of this section, the State Board of Education shall not require the public schools to administer any standardized tests except for those required by federal law or as a condition of a federal grant.

The State Board of Education shall adopt and provide to local school administrative units all tests required by federal law or as a condition of a federal grant."

**SECTION 7.30.(b)** Article 10A of Chapter 115C of the General Statutes is amended by adding two new Parts to read:

"Part 4. Student Diagnostic Tests.

"§ 115C-174.20. Tools for student learning.

To the extent funds are made available for this purpose, the State Board shall plan for and require the administration of diagnostic tests in the eighth and tenth grades that align to the ACT test in order to help diagnose student learning and provide for students an indication of whether they are on track to be remediation-free at a community college or university.

"Part 5. Career Readiness.

"§ 115C-174.25. WorkKeys.

To the extent funds are made available for this purpose, the State Board shall plan for and require local school administrative units to make available the appropriate WorkKeys tests for all students who complete the second level of vocational/career courses."

**SECTION 7.30.(c)** This section applies beginning with the 2011-2012 school year.

**FUND ONE LEA PER COUNTY**

**SECTION 7.31.(a)** Notwithstanding any other provision of law, the State Board of Education shall allot State funds on the basis of only one local school administrative unit per county beginning with the 2012-2013 fiscal year. For the 2011-2012 fiscal year, the State Board shall reduce funds allotted to city school administrative units from formulas that allot funds on a per local school administrative unit basis. For the 2012-2013 fiscal year, the State Board shall change formulas that allot funds on a per local school administrative unit basis to formulas that allot funds on a per county basis. If the amount previously allotted per local school administrative unit was graduated on the basis of average daily membership, the amount allotted per county shall be graduated on the basis of the total average daily membership of all units located in the county.

If a city school administrative unit is located in more than one county, the State Board of Education shall include in each county's average daily membership the average daily membership of the county's students in the city school administrative unit.

If a county contains more than one local school administrative unit, the State Board shall divide the amount allotted on a per county basis between the units on the basis of average daily membership.

**SECTION 7.31.(b)** This section does not apply to allotments to the Nash-Rocky Mount School Administrative Unit, the Edgecombe County School Administrative Unit, the Cleveland County School Administrative Unit, or the Gaston County School Administrative Unit.

**PART VIII. COMMUNITY COLLEGES**

**REORGANIZATION OF THE COMMUNITY COLLEGES SYSTEM OFFICE**

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

**SECTION 8.1.(b)** This section expires June 30, 2012.

**REPEAL OBSOLETE REPORTING REQUIREMENTS**

**SECTION 8.2.(a)** G.S. 115D-4.1(e) reads as rewritten:

"(e) The State Board of Community Colleges shall develop appropriate criteria and standards to regulate the operation of college transfer programs. ~~The criteria and standards shall require all college transfer programs to continue to meet the accreditation standards of the Southern Association of Colleges and Schools.~~

~~The State Board of Community Colleges shall report annually to the General Assembly on compliance of the community colleges with these criteria and standards.~~"

**SECTION 8.2.(b)** G.S. 115D-5(j) reads as rewritten:

"(j) The State Board of Community Colleges shall use its Board Reserve Fund for feasibility studies, pilot projects, start-up of new programs, and innovative ideas. ~~The State Board shall report to the Joint Legislative Education Oversight Committee on expenditures from the State Board Reserve Fund on January 15 and June 15 each year.~~"

**IMPLEMENT ALTERNATIVE FORMULA MODEL**

**SECTION 8.3.(a)** The State Board of Community Colleges shall consolidate the Health Sciences Allotment, the Technical Education Allotment, and the Special High Cost Allotment for Heavy Equipment with formula funds to support curriculum instruction.

**SECTION 8.3.(b)** The State Board of Community Colleges shall allocate formula funds appropriated to support curriculum instruction and the occupational education component of continuing education through a formula that provides an instructional base allocation to all colleges and allocates remaining funds on a weighted full-time equivalent (FTE) basis. In determining the appropriate weighting, the State Board of Community Colleges shall weigh curriculum courses in high-cost areas such as health care, technical education, and lab-based science courses more heavily than other curriculum courses. The State Board of Community Colleges shall also weigh continuing education courses that lead to a third-party credential or certification and courses providing an industry-designed curriculum more heavily than other occupational extension courses.

**USE OF OVERREALIZED RECEIPTS TO SUPPORT ENROLLMENT GROWTH RESERVE RATHER THAN EQUIPMENT RESERVE**

**SECTION 8.4.** G.S. 115D-31(e) reads as rewritten:

"(e) If receipts for community college tuition and fees exceed the amount certified in General Fund Codes at the end of a fiscal year, the State Board of Community Colleges shall transfer the amount of receipts and fees above those budgeted to the ~~Equipment Reserve Fund.~~Enrollment Growth Reserve. Funds in the Enrollment Growth Reserve shall not revert to the General Fund and shall remain available to the State Board until expended. The State Board may allocate funds in this reserve to colleges experiencing an enrollment increase greater than five percent (5%) of budgeted enrollment levels."

**BASIC SKILLS PLUS**

**SECTION 8.5.(a)** Notwithstanding any other provision of law, the State Board may authorize a local community college to use up to twenty percent (20%) of the State Literacy Funds allocated to it to provide employability skills, job-specific occupational and technical skills, and developmental education instruction to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate.

**SECTION 8.5.(b)** Notwithstanding any other provision of law, if a community college is authorized by the State Board to provide employability skills, job-specific occupational or technical skills, or developmental education instruction to students concurrently enrolled in a community college course leading to a high school diploma or equivalent certificate, the college may waive the tuition and registration fees associated with this instruction.

**CARRYFORWARD OF COLLEGE INFORMATION SYSTEM FUNDS**

**SECTION 8.6.** Of the funds appropriated to the Community Colleges System Office for the 2011-2013 fiscal biennium for the College Information System, up to one million two hundred fifty thousand dollars ($1,250,000) shall not revert at the end of each fiscal year but shall remain available until expended. These funds may be used only to purchase periodic system upgrades.

**EQUIPMENT FUNDING**

**SECTION 8.8.** For the 2011-2013 fiscal biennium, community colleges may expend regular equipment allocations on equipment, repairs and renovations of existing facilities, and new construction. Colleges must match funds expended on new construction on an equal matching-fund basis in accordance with G.S. 115D-31. Notwithstanding any other provision of law, community colleges are not required to match funds expended on repairs and renovations of existing facilities.

Colleges must have capital improvement projects approved by the State Board of Community Colleges and any required matching funds identified by June 30, 2013.

**CLARIFICATION REGARDING EQUIPMENT TITLED TO STATE BOARD**

**SECTION 8.9.** G.S. 115D-15(a) reads as rewritten:

"(a) The board of trustees of any institution organized under this Chapter may, with the prior approval of the North Carolina Community Colleges System Office, convey a

right-of-way or easement for highway construction or for utility installations or modifications. When in the opinion of the board of trustees the use of any other real property owned or held by the board of trustees is unnecessary or undesirable for the purposes of the institution, the board of trustees, subject to prior approval of the State Board of Community Colleges, may sell, exchange, or lease the property. The board of trustees may dispose of any personal property owned or held by the board of trustees without approval of the State Board of Community Colleges. Personal property titled to the State Board of Community Colleges consistent with G.S. 115D-14 and G.S. 115D-58.5 may be transferred to another community college at no cost and without the approval of the Department of Administration, Division of Surplus Property.

Article 12 of Chapter 160A of the General Statutes shall apply to the disposal or sale of any real or personal property under this subsection. Personal property also may be disposed of under procedures adopted by the North Carolina Department of Administration. The proceeds of any sale or lease shall be used for capital outlay purposes, except as provided in subsection (b) of this section."

**NO STATE FUNDS FOR INTERCOLLEGIATE ATHLETICS**

**SECTION 8.10.** Article 3 of Chapter 115D of the General Statutes is amended by adding a new section to read:

"**§ 115D-42.1. Funds for an intercollegiate athletics program.**

No State funds, student tuition receipts, or student aid funds shall be used to create, support, maintain, or operate an intercollegiate athletics program at a community college."

**COMMUNITY COLLEGE TUITION WAIVERS**

**SECTION 8.12.(a)** G.S. 115D-5(b) reads as rewritten:

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

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

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

a. ~~(i) volunteer firemen,~~Volunteer fire departments.

b. ~~(ii) local fire department personnel,~~ Municipal, county, or State fire departments.

c. ~~(iii) volunteer rescue and lifesaving department personnel,~~Volunteer EMS or rescue and lifesaving departments.

d. ~~(iv) local rescue and lifesaving department personnel,~~ Municipal, county, or State EMS or rescue and lifesaving departments.

e. ~~(v) Radio Emergency Associated Citizens Team (REACT) members when the REACT team is under contract to a county as an emergency response agency, (vi) municipal, county, or State law enforcement officers,~~Municipal, county, or State law enforcement agencies.

f. ~~(vii) all full-time custodial employees of the Department of Correction, and~~ The Department of Correction for the training of full-time custodial employees and employees of the Department's Division of Community Corrections required to be certified under Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission.

g. ~~(viii) employees of the Department's Division of Community Corrections and employees of the~~ The Department of Juvenile Justice and Delinquency Prevention for the training of employees required to

be certified under Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards ~~Commission;~~Commission.

~~(3) Patients in State alcoholic rehabilitation centers;~~

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

~~(5) Clients of sheltered workshops;~~

~~(6) Clients of adult developmental activity programs;~~

~~(7) Students in Health and Human Services Development Programs;~~

~~(8) Juveniles of any age committed to the Department of Juvenile Justice and Delinquency Prevention by a court of competent jurisdiction;~~

~~(9) Members of the North Carolina State Defense Militia as defined in G.S. 127A-5 and as administered under Article 5 of Chapter 127A of the General Statutes;~~

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

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

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

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

~~(14) Prison inmates.~~

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

**SECTION 8.12.(b)** G.S. 115D-5 is amended by adding a new subsection to read:

"(b1) The State Board of Community Colleges shall not waive tuition and registration fees for community college faculty or staff members. Community colleges may, however, use State or local funds to pay tuition and registration fees for one course per semester for full-time community college faculty or staff members employed for a nine-, ten-, eleven-, or twelve-month term."

**SECTION 8.12.(c)** The Community Colleges System Office shall transfer funds appropriated for curriculum and continuing education instruction to the Department of Correction. The Department of Correction shall use these funds to pay tuition and fees for prisoners.

The amount transferred shall be calculated by multiplying the number of curriculum and continuing education FTE served in prisons in the 2010-2011 fiscal year by the per capita budgeted receipts for curriculum and continuing education.

This subsection is projected to result in a reduction of up to forty-three percent (43%) in the number of curriculum and continuing education courses provided to prisoners.

**SECTION 8.12.(d)** G.S. 115D-39(a1) reads as rewritten:

"(a1) In addition, ~~any~~ federal law enforcement ~~officer~~ officers, firefighters, EMS personnel, and rescue and lifesaving personnel whose permanent duty station is within North Carolina shall also be eligible for the State resident community college tuition rate for ~~law enforcement training courses.~~courses that support their organizations' training needs and are approved for this purpose by the State Board of Community Colleges."

**FUNDING FOR MULTICAMPUS CENTERS**

**SECTION 8.13.** G.S. 115D-5(o) reads as rewritten:

"(o) The General Assembly finds that additional data are needed to determine the adequacy of multicampus and off-campus center funds; therefore, multicampus colleges and colleges with off-campus centers shall report annually, beginning September 1, 2005, to the Community Colleges System Office on all expenditures by line item of funds used to support their multicampuses and off-campus centers. The Community Colleges System Office shall

report on these expenditures to the Education Appropriation Subcommittees of the House of Representatives and the Senate, the Office of State Budget and Management, and the Fiscal Research Division by December 1 of each year.

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

**STUDY COMMUNITY COLLEGE PERFORMANCE MEASURES**

**SECTION 8.14.** The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee by March 1, 2012, on a revised set of accountability measures and performance standards by which to evaluate and measure student progress and student success, including measures of graduation rates and course completions. The report shall include a plan to incorporate these revised accountability measures and performance standards into regular formula funding. These revised accountability measures and performance standards shall also be the basis for the allocation of performance funding, in accordance with G.S. 115D-31.3(g) and (h).

**COMMUNITY COLLEGE AUDITS**

**SECTION 8.15.** Article 4A of Chapter 115D of the General Statutes is amended by adding a new section to read:

"**§ 115D-58.16. Audits.**

(a) Each community college shall be audited a minimum of once every two years. Community colleges may use State funds to contract with the State Auditor or with a certified public accountant to perform the audits. The colleges shall submit the results of the audits to the State Board of Community Colleges.

The State Board of Community Colleges shall ensure that all colleges are audited in accordance with this section.

(b) Notwithstanding the provisions of Chapter 143D of the General Statutes, a community college shall not be subject to the EAGLE program administered by the Office of the State Controller unless (i) there is a finding of internal control problems in the most recent financial audit of the college or (ii) the State Board of Community Colleges determines that a college should be subject to the program."

**ENROLLMENT GROWTH**

**SECTION 8.16.(a)** It is the intent of the General Assembly to ensure that there is an increase in funding for community college technology and equipment when enrollment increases; therefore, the continuation budget requirements proposed by the Director of the Budget in accordance with G.S. 143C-3-5 to fund the community college enrollment growth shall include adjustments necessary to fund additional equipment FTE at the prior year's rate.

**SECTION 8.16.(b)** Beginning with any adjustments to the 2011-2012 fiscal year budget, and annually thereafter, the State Board of Community Colleges' requests for funding enrollment growth shall provide a detailed description of the costs of educating community college students. This request shall be based on the current year's enrollment, listed by college and aggregated for the system as a whole.

**SECTION 8.16.(c)** Enrollment requests shall include the following information for each community college:

(1) The budgeted enrollment for the current year, divided between the categories of instruction: curriculum, continuing education, and Basic Skills.

(2) The budgeted enrollment for the current year, divided between tiers of instruction, as set forth in Section 8.3 of this act.

(3) The actual enrollment for the two years prior to the current year.

(4) A five-year enrollment projection at each community college by category and tier of instruction.

(5) The projected requirements and anticipated tuition receipts for the growth in regular-term enrollment.

(6) The costs per FTE in each category and tier of instruction, to include the following component parts:

a. Instructional costs, including faculty salaries and other costs.

b. Student support services and other college administrative costs.

**EXEMPT COMMUNITY COLLEGES FROM APA**

**SECTION 8.18.(a)** G.S. 150B-1(d)(14) and (19) are repealed.

**SECTION 8.18.(b)** G.S. 150B-1 is amended by adding a new subsection to read:

"(g) Exemption for the Community Colleges System Office. – Except as provided in G.S. 143-135.3, no Article in this Chapter except Article 4 applies to the Community Colleges System Office."

**SECTION 8.18.(c)** This act is effective when it becomes law.

**CAPITAL IMPROVEMENTS AT COMMUNITY COLLEGES**

**SECTION 8.19.(a)** G.S. 115D-9 reads as rewritten:

"**§ 115D-9. Powers of State Board regarding certain fee negotiations, contracts, and capital improvements.**

(a) The expenditures of any State funds for any capital improvements of existing institutions shall be subject to the prior approval of the State Board of Community Colleges and the Governor. The expenditure of State funds at any institution herein authorized to be approved by the State Board under G.S. 115D-4 shall be subject to the terms of the State Budget Act unless specifically otherwise provided in this Chapter.

(b) Notwithstanding G.S. 143-341(3), the State Board of Community Colleges may, with respect to design, construction, repair, or renovation of buildings, utilities, and other ~~State or non-State funded~~ State-funded property developments of the North Carolina Community College System requiring the estimated expenditure of public money of ~~one million dollars ($1,000,000)~~ four million dollars ($4,000,000) or less:

(1) Conduct the fee negotiations for all design contracts and supervise the letting of all construction and design contracts.

(2) Develop procedures governing the responsibilities of the North Carolina Community College System and its community colleges to perform the duties of the Department of Administration and the Director or Office of State Construction under G.S. 133-1.1(d) and G.S. 143-341(3).

(3) Use existing plans and specifications for construction projects, where feasible. Prior to designing a project, the State Board shall consult with the Department of Administration on the availability of existing plans and specifications and the feasibility of using them for a project.

(c) The State Board may delegate its authority under subsection (b) of this section to a community college if the community college is qualified under guidelines adopted by the State Board and approved by the State Building Commission and the Director of the Budget.

(d) The North Carolina Community College System shall use the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.

(e) A contract may not be divided for the purpose of evading the monetary limit under this section.

(f) Notwithstanding any other provision of this Chapter, the Department of Administration shall not be the awarding authority for contracts awarded under subsections (b) or (c) of this section.

(g) The State Board shall annually report to the State Building Commission the following:

(1) A list of projects governed by this section.

(2) The estimated cost of each project along with the actual cost.

(3) The name of each person awarded a contract under this section.

(4) Whether the person or business awarded a contract under this section meets the definition of "minority business" or "minority person" as defined in G.S. 143-128.2(g).

(h) The provisions of G.S. 143-341(3) shall not apply to a capital improvement project funded with non-State funds if the State Board of Community Colleges determines that the college has the expertise necessary to manage the project unless the assistance of the Office of State Construction is requested."

**SECTION 8.19.(b)** This section is effective when it becomes law and applies to projects initiated on or after that date.

**ADDITIONAL FLEXIBILITY WITH REGARD TO COMMUNITY COLLEGE INVESTMENTS**

**SECTION 8.20.(a)** G.S. 115D-58.6 reads as rewritten:

"**§ 115D-58.6. Investment of idle cash.**

(a) Definitions. – As used in this section the following definitions apply:

(1) "Cash balance" means the amount equal to all moneys received into institutional fund accounts minus all expenses and withdrawals from those accounts in an official depository of the institution as designated by the local board of trustees consistent with G.S. 115D-58.7.

(2) "Official depository" means one or more banks, savings and loan associations, or trust companies in North Carolina that a community college board of trustees has designated consistent with G.S. 115D-58.7.

(a1) Deposits. – The institution may deposit at interest ~~or invest~~ all or part of the cash balance of any fund in an official depository of the institution. ~~The institution shall manage investments subject to whatever restrictions and directions the board of trustees may impose. The institution shall have the power to purchase, sell, and exchange securities on behalf of the board of trustees. The investment program shall be so managed that investments and deposits can be converted into cash when needed.~~Moneys may be deposited at interest in any official depository of the institution in the form of certificates of deposit or such other forms of time deposits as may be approved for county governments. In addition, moneys may be deposited in the form of certificates of deposit as provided for a local government or public authority in G.S. 159-30(b1). Investment deposits shall be secured as provided in G.S. 159-31(b).

~~(b) Moneys may be deposited at interest in any bank, savings and loan association or trust company in this State in the form of certificates of deposit or such other forms of time deposits as may be approved for county governments. In addition, moneys may be deposited in the form of certificates of deposit as provided for a local government or public authority in G.S. 159-30(b1). Investment deposits shall be secured as provided in G.S. 159-31(b).~~

~~(c)~~(b) Investments. – The institution may invest all or part of the cash balance of any fund in an official depository of the institution. The institution shall manage investments subject to whatever restrictions and directions the board of trustees may impose. The institution shall have the power to purchase, sell, and exchange securities on behalf of the board of trustees. The investment program shall be so managed that investments and deposits can be converted into cash when needed.

(1) Moneys ~~may~~ shall only be invested in the form of investments pursuant to G.S. 159-30(c) to county governments ~~and no others.~~or in any form of investment established or managed by an investment advisor who is registered and in good standing with either the Securities and Exchange Commission or the North Carolina Secretary of State, Securities Division, and is a member of the Securities Investor Protection Corporation. Money in endowment funds may be invested pursuant to G.S. 147-69.2. Provided, however, the institution may elect to deposit at interest any local funds with the State Treasurer for investment as special trust funds pursuant to the provisions of G.S. 147-69.3, and the interest thereon shall accrue to the institution as local funds.

~~(d) Investment~~

(2) The investment securities listed in G.S. 159-30(c) may be bought, sold, and traded by private negotiation, and the institutions may pay all incidental costs thereof and all reasonable costs of administering the investment and deposit program from local funds. The institution shall be responsible for their safekeeping and for keeping accurate investment accounts and records.

~~(e)~~(c) Interest earned on deposits and investments shall be credited to the fund whose cash is deposited or invested. Cash of several funds may be combined for deposit or investment if not otherwise prohibited by law; and when such joint deposits or investments are made, interest earned shall be prorated and credited to the various funds on the basis of the amounts thereof invested, figured according to an average periodic balance or some other sound accounting principle. Interest earned on the deposit or investment of bond funds shall be deemed a part of the bond proceeds.

~~(f)~~(d) Registered securities acquired for investment may be released from registration and transferred by signature of the official designated by the board of ~~trustees."~~trustees.

(e) The Board of Trustees shall appoint an Investment Committee which shall consist of a minimum of three people who have sufficient financial background to review and evaluate investment options. These individuals should have experience in institutional or retail investment management with knowledge of fixed income and public equities. This committee shall make recommendations to the Board on those investment options, as well as monitor the performance of investments once made.

(f) The Board of Trustees shall discharge their duties with respect to the management and investment of college funds as follows:

(1) Investment decisions shall be solely in the interest of the college and the students, faculty, and staff of the college.

(2) The investments shall be for the exclusive purpose of providing an adequate return to the college.

(3) Investments shall be made with the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose.

(4) Investment decisions shall be made impartially, taking into account the best interest of the college, with special attention to conflicts of interest or potential conflicts of interest.

(5) Investments shall incur only costs that are appropriate and reasonable."

**SECTION 8.20.(b)** G.S. 147-69.2 is amended by adding a new subdivision to read:

"(20) Institutional funds of the colleges of the North Carolina Community College System."

## PART IX. UNIVERSITIES

### CENTER FOR PUBLIC TELEVISION CONTINUATION REVIEW

**SECTION 9.1.(a)** A continuation review of the Center for Public Television shall be prepared jointly by The University of North Carolina General Administration and The University of North Carolina Center for Public Television. The review shall be submitted to the House of Representatives and Senate Appropriations Subcommittees on Education no later than March 31, 2012. The written report shall include the information listed in subsection (b) of this section.

**SECTION 9.1.(b)** The continuation review required by this section shall include all of the following information:

(1) A description of the services provided by the Center for Public Television and its mission, goals, and objectives.

(2) The program's statutory objectives and the problem or need addressed.

(3) The extent to which the program's objectives have been achieved.

(4) The program's functions or programs performed without specific statutory authority.

(5) The program's performance measures and the process by which the performance measures determine efficiency and effectiveness.

(6) Recommendations for statutory, budgetary, or administrative changes needed to improve efficiency and effectiveness of services delivered to the public.

(7) The consequences of discontinuing funding.

(8) Recommendations for improving services or reducing costs or duplication.

(9) The identification of policy issues that should be brought to the attention of the General Assembly.

(10) Any other information necessary to fully support the General Assembly's Continuation Review Program, along with any information included in instructions from the Fiscal Research Division.

### UNIVERSITY CANCER RESEARCH FUND REPORTING REQUIREMENT

**SECTION 9.4.** G.S. 116-29.1 is amended by adding a new subsection to read:

"(g) Report. – By November 1 of each year, the Cancer Research Fund Committee shall provide to the Joint Legislative Education Oversight Committee and to the Office of State

Budget and Management an annual financial report which shall include the following components:

(1) Accounting of expenditures of State funds related to strategic initiatives, development of infrastructure, and ongoing administrative functions.

(2) Accounting of expenditures of extramural funds related to strategic initiatives, development of infrastructure, and ongoing administrative functions.

(3) Measures of impact to the State's economy in the creation of jobs, intellectual property, and start-up companies.

(4) Other performance measures directly related to the investment of State funds.

(5) Accounting of any fund balances retained by the Fund, along with information about any restrictions on the use of these funds."

**UNC BOARD OF GOVERNORS REVIEW OF FACULTY RECRUITMENT AND RETENTION**

**SECTION 9.5.** The Board of Governors of The University of North Carolina shall review its current policies regarding financial incentives to retain faculty. The review shall focus on the prioritization of recruitment and retention funds and the identification of key metrics to measure overall program effectiveness. The Board of Governors shall report its findings and recommendations for changes to the policies, if any, to the Joint Legislative Education Oversight Committee, the Office of State Budget and Management, and the Fiscal Research Division by April 1, 2012.

**UNC MANAGEMENT FLEXIBILITY REDUCTION**

**SECTION 9.6.(a)** The management flexibility reduction for The University of North Carolina shall not be allocated by the Board of Governors to the constituent institutions and affiliated entities using an across-the-board method but in a manner that recognizes the importance of the academic mission and differences among The University of North Carolina entities.

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

(1) Reducing State funding for centers and institutes, speaker series, and other nonacademic activities.

(2) Faculty workload adjustments.

(3) Restructuring of research activities.

(4) Implementing cost-saving span of control measures.

(5) Reducing the number of senior and middle management positions.

(6) Eliminating low-performing, redundant, or low-enrollment programs.

(7) Protecting direct classroom services, including faculty members and adjunct professors.

The Board of Governors and the campuses of the constituent institutions also shall review the institutional trust funds and the special funds held by or on behalf of The University of North Carolina and its constituent institutions to determine whether there are monies available in those funds that can be used to assist with operating costs.

In addition, the campuses of the constituent institutions also shall require their faculty to have a teaching workload equal to the national average in their Carnegie classification.

When implementing personnel reductions, the Board of Governors and the campuses shall make every effort to abolish vacant positions first.

**SECTION 9.6.(b)** In allocating the management flexibility reduction, State funds shall not be reduced in either fiscal year of the biennium by more than fifteen percent (15%) from the Governor's Recommended Continuation Budget for the 2011-2013 fiscal biennium for any of the following:

(1) Hickory Metro Higher Education Center.

(2) Joint Graduate School of Nanoscience and Nanoengineering at North Carolina Agricultural and Technical State University and the University of North Carolina at Greensboro.

(3) The North Carolina Research Campus.

(4) Agricultural Extension.
(5) Agricultural Research.
(6) University of North Carolina School of the Arts.
(7) North Carolina Judicial College of the UNC School of Government.

**SECTION 9.6.(c)** In allocating the management flexibility reduction, no reduction in State funds shall be allocated in either fiscal year of the 2011-2013 biennium to any of the following:

(1) Center for Turfgrass Environmental Research and Education at North Carolina State University.
(2) Need-Based Financial Aid.
(3) Aid to Private Colleges.

**ADVISORY COMMISSION ON MILITARY AFFAIRS/MODIFY MEMBERSHIP**

**SECTION 9.6A.** G.S. 127C-2 reads as rewritten:

"**§ 127C-2. Membership.**

(a) The North Carolina Advisory Commission on Military Affairs shall consist of 21 voting members, who shall serve on the Executive Committee, and ~~15~~17 nonvoting, ex officio members who shall serve by reason of their positions.

(b) The Executive Committee shall be appointed as follows:
(1) Three members appointed by the Speaker of the House of Representatives, one of whom shall be a member of a recognized veterans' organization.
(2) Three members appointed by the President Pro Tempore of the Senate, one of whom shall be a member of a recognized veterans' organization.
(3) Fifteen members appointed by the Governor, consisting of:
a. Three representatives from the Jacksonville community.
b. Three representatives from the Havelock community.
c. Three representatives from the Goldsboro community.
d. Three representatives from the Fayetteville community.
e. Three public members from across the State.

(c) The following members, or their designee, shall serve ex officio:
(1) The Lieutenant Governor.
(1a) Secretary of Crime Control and Public Safety.
(2) Secretary of Commerce.
(2a) The Secretary of Transportation.
(2b) The Secretary of the Department of Environment and Natural Resources.
(3) Commanding General 18th Airborne Corps, Fort Bragg.
(4) Commanding General Marine Corps Base, Camp Lejeune.
(5) Commanding General Marine Corps Air Station, Cherry Point.
(6) Commander 4th FW, Seymour Johnson Air Force Base.
(7) Commander 43rd Airlift Wing, Pope Air Force Base.
(8) Commander of the U.S. Coast Guard Support Center, Elizabeth City.
(9) Adjutant General of the North Carolina National Guard.
(10) The Executive Director of the North Carolina League of Municipalities.
(11) The Executive Director of the North Carolina Association of County Commissioners.
(12) The Assistant Secretary for Veterans Affairs, Department of Administration.
(13) The President of The University of North Carolina.
(14) The President of the North Carolina Community College System.

(d) The Governor shall designate one member of the Executive Committee appointed pursuant to subsection (b) of this section to serve as chair. The Executive Committee shall elect four persons from amongst its membership to serve as vice-chairs.

(e) The terms of the members of the Executive Committee shall be as follows:
(1) The members initially appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall serve terms ending on December 31, 2003.
(2) Seven of the members appointed by the Governor shall serve initial terms ending on December 31, 2002.
(3) Eight of the members appointed by the Governor shall serve initial terms ending on December 31, 2003.

Thereafter, all members shall serve two-year terms."

**CLARIFICATION/GENERAL FUND APPROPRIATIONS CARRIED FORWARD BY UNC SHALL NOT BE USED FOR CAPITAL IMPROVEMENTS**

**SECTION 9.6B.** G.S. 116-30.3 is amended by adding a new subsection to read:

"(f) No funds carried forward pursuant to this section shall be used for a capital improvement as defined in G.S. 143C-1-1."

**ALLOW CHANCELLORS OF CONSTITUENT INSTITUTIONS TO APPROVE CERTAIN REPAIR AND MAINTENANCE PROJECTS AND FUND THOSE WITH AVAILABLE OPERATING FUNDS**

**SECTION 9.6C.** G.S. 116-13.1 reads as rewritten:

"**§ 116-13.1. Capital facilities; ~~reports.~~reports; chancellors may authorize certain repair, renovation, and maintenance projects.**

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

(1) The Board of Governors of The University of North Carolina shall require each constituent and affiliated institution to monitor the condition of its facilities and their needs or repair and renovation, and to assure that all necessary maintenance is carried out within funds available.

(2) The Board of Governors shall report annually to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee on the condition of the University's capital facilities, the repair, renovation, and maintenance projects being undertaken, and all needs for additional funding to maintain the facilities.

(3) It is the intent of the General Assembly to assure that adequate oversight, funding, and accountability are continually provided so that the capital facilities of the University are properly maintained to preserve the level of excellence the citizens of this State deserve. To this end, the Joint Legislative Education Oversight Committee shall report to the General Assembly annually its recommendations for legislative changes to implement this policy.

(b) Equity in University Improvements. – The Board of Governors of The University of North Carolina shall continue to study and monitor any inequities in funding for capital improvements and facilities needs which may still exist on North Carolina's Public Historically Black Colleges and Universities and North Carolina's Historically American Indian University, the University of North Carolina at Pembroke, beyond the funding of the projects provided for in this act, and shall report annually to the Joint Legislative Commission on Governmental Operations on any remaining inequities found, including recommendations as to how those inequities should be addressed.

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

**AUTHORIZE BOARD OF GOVERNORS TO PERMIT NORTH CAROLINA STATE UNIVERSITY TO SELF-PERFORM ENERGY CONSERVATION MEASURES AND TO AUTHORIZE ENERGY SAVINGS REALIZED BY NORTH CAROLINA STATE UNIVERSITY TO BE USED AS A SOURCE OF REPAYMENT FOR CERTAIN DEBTS**

**SECTION 9.6D.(a)** Article 3B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-64.17L. Board of Governors may authorize energy conservation measures at constituent institutions.**

(a) Authority. – Notwithstanding the provisions of this Part to the contrary, the Board of Governors of The University of North Carolina may authorize any constituent institution listed in subsection (e) of this section to implement an energy conservation measure without entering into a guaranteed energy savings contract if both of the following conditions are met:

(1) The Board of Governors finds that the energy savings resulting from the implementation of the energy conservation measure shall, according to the energy savings analysis received pursuant to G.S. 143-64.17M(a), equal or exceed the total cost of implementing the measure. If the proposed implementation will be financed with debt, then the energy savings analysis must project sufficient energy savings to pay the debt service on any bonds to be issued. As used in this subdivision, the term 'total cost' shall have the same meaning as it does in G.S. 143-64.17B(d).

(2) The energy conservation measure is for an existing building or utility system.

(b) Scope of Authority. – In implementing an energy conservation measure pursuant to subsection (a) of this section, the Board of Governors may undertake or authorize any constituent institution listed in subsection (e) of this section to undertake any action that (i) could be required of a qualified provider under a guaranteed energy savings contract or (ii) is otherwise permissible under this Part.

(c) Projects Consisting of Multiple Energy Conservation Measures. – The Board of Governors may authorize the implementation of multiple energy conservation measures simultaneously as part of a single project. When doing so, the findings required by subsection (a) of this section may be made with respect to the project as a whole and need not be made with respect to individual energy conservation measures. Similarly, the analyses required by G.S. 143-64.17M may be conducted for the project as a whole instead of for individual energy conservation measures.

(d) Continuing Applicability of Part to Contracts. – If the Board of Governors or a constituent institution implements an energy conservation measure through a guaranteed energy savings contract, that contract shall accord in all respects with the requirements of this Part.

(e) The Board of Governors may authorize North Carolina State University to implement an energy conservation measure without entering into a guaranteed energy savings contract pursuant to this section."

**SECTION 9.6D.(b)** Article 3B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-64.17M. Energy savings analysis required prior to implementation; post-implementation analyses required.**

(a) Energy Savings Analysis Required Prior to Implementation. – Prior to implementing an energy conservation measure pursuant to G.S. 143-64.17L, an energy savings analysis shall be performed to validate the economic assumptions that purportedly support the implementation of the measure. This analysis shall be performed by a third party selected by the constituent institution and shall include an energy consumption analysis to develop a baseline of previous costs of all utilities' energy consumption for the institution on the assumption that the energy conservation measure was not undertaken. The completed analysis shall be submitted to The University of North Carolina General Administration and to the State Energy Office.

(b) Post-Implementation Analyses Required. – A constituent institution that implements an energy conservation measure pursuant to G.S. 143-64.17L shall retain a third party to perform an annual measurement and verification of energy savings resulting from the energy conservation measure as compared to the baseline of previous costs set forth in the energy savings analysis required by subsection (a) of this section. The third party shall annually provide a reconciliation statement based upon the results of a preagreed upon measurement, monitoring, and verification protocol which shall disclose any shortfall or surplus between the estimated energy usage and operational savings set forth in the energy savings analysis required by subsection (a) of this section and actual, not stipulated, energy usage and operational savings incurred during a given year.

If a reconciliation statement reveals a shortfall in energy savings for a particular year, the constituent institution shall be responsible for and shall pay the shortfall. However, the institution shall not be held responsible for losses due to natural disasters or other emergencies. Any surplus shall be retained by the institution and may be used in the same manner as any other energy savings."

**SECTION 9.6D.(c)** G.S. 116-30.3B(b) reads as rewritten:

"(b) It is the intent of the General Assembly that appropriations to the Board of Governors on behalf of a constituent institution not be reduced as a result of the institution's realization of energy savings. Instead, the General Assembly intends that the amount of appropriations be determined as if no energy savings had been realized. The Director of the Budget shall not decrease the recommended continuation budget requirements for utilities for constituent institutions by the amount of energy savings realized from implementing energy conservation measures, including savings achieved through a guaranteed energy savings contract."

**SECTION 9.6D.(d)** G.S. 143-64.17F(b) reads as rewritten:

"(b) The Department of Administration, in consultation with the Department of Commerce through the State Energy Office, shall adopt rules for: (i) agency evaluation of guaranteed energy savings contracts; (ii) establishing time periods for consideration of guaranteed energy savings contracts by the Office of State Budget and Management, the Office of the State Treasurer, and the Council of State, and (iii) setting measurements and verification criteria, including review, audit, and precertification. Prior to adopting any rules pursuant to this section, the Department shall consult with and obtain approval of those rules from the State Treasurer. The rules adopted pursuant to this subsection shall not apply to energy conservation measures implemented pursuant to G.S. 143-64.17L."

**SECTION 9.6D.(e)** G.S. 143-64.17H reads as rewritten:

**"§ 143-64.17H. Report on guaranteed energy savings contracts entered into by State governmental units.**

A State governmental unit that enters into a guaranteed energy savings contract or implements an energy conservation measure pursuant to G.S. 143-64.17L must report either (i) the contract and the terms of the ~~contract~~ contract or (ii) the implementation of the measure to the State Energy Office of the Department of Commerce within 30 days of the date the contract is entered ~~into.~~ into or the measure is implemented. In addition, within 60 days after each annual anniversary date of a guaranteed energy savings contract, the State governmental unit must report the status of the contract to the State Energy Office, including any details required by the State Energy Office. The State Energy Office shall compile the information for each fiscal year and report it to the Joint Legislative Commission on Governmental Operations and to the Local Government Commission annually by December 1. In compiling the information, the State Energy Office shall include information on the energy savings expected to be realized from a contract or implementation and shall evaluate whether expected savings have in fact been realized."

**SECTION 9.6D.(f)** G.S. 142-63 reads as rewritten:

**"§ 142-63. Authorization of financing contract.**

Subject to the terms and conditions set forth in this Article, (i) a State governmental unit that is implementing an energy conservation measure pursuant to G.S. 143-64.17L and financing it pursuant to this Article, (ii) a State governmental unit that has solicited a guaranteed energy conservation measure pursuant to G.S. 143-64.17A or ~~G.S. 143-64.17B or~~ G.S. 143-64.17B, or (iii) the State Treasurer, as designated by the Council of State, is authorized to execute and deliver, for and on behalf of the State of North Carolina, a financing contract to finance the costs of the energy conservation measure. The aggregate outstanding amount payable by the State under financing contracts entered pursuant to this Article shall not exceed five hundred million dollars ($500,000,000) at any one time."

**SECTION 9.6D.(g)** G.S. 142-64(a) reads as rewritten:

**"§ 142-64. Procedure for incurrence or issuance of financing contract.**

(a) When a State governmental unit (i) is implementing an energy conservation measure pursuant to G.S. 143-64.17L and financing it pursuant to this Article or (ii) has solicited a guaranteed energy conservation measure, the State governmental unit shall request that the State Treasurer approve the State governmental unit's entering into a financing contract to finance the cost of the energy conservation measure. In connection with the request, the State governmental unit shall provide to the State Treasurer any information the State Treasurer

requests in order to evaluate the request. In the event that the State Treasurer determines that financing efficiencies will be realized through the combining of financing contracts, then the State Treasurer is authorized to execute and deliver, for and on behalf of the State of North Carolina, subject to the terms and conditions set forth in this Article, a financing contract for the purpose of financing the cost of the multiple energy conservation measures."

**SECTION 9.6D.(h)** G.S. 116D-22(3) reads as rewritten:

"(3) Obligated resources. – Any sources of income or receipts of the Board of Governors or the institution at which a special obligation bond project is or will be located that are designated by the Board as the security and source of payment for bonds issued under this Article to finance a special obligation bond project, including, without limitation, any of the following:

a. Rents, charges, or fees to be derived by the Board of Governors or the institution from any activities conducted at the institution.

b. Earnings on the investment of the endowment fund of the institution at which a special obligation project will be located, to the extent that the use of the earnings will not violate any lawful condition placed by the donor upon the part of the endowment fund that generates the investment earnings.

c. Funds to be received under a contract or a grant agreement, including "overhead costs reimbursement" under a grant agreement, entered into by the Board of Governors or the institution to the extent the use of the funds is not restricted by the terms of the contract or grant agreement or the use of the funds as provided in this Article does not violate the restriction.

d. Funds appropriated from the General Fund to the Board of Governors on behalf of a constituent institution for utilities of the institution that constitute energy savings as that term is defined in G.S. 143-64.17.

~~Obligated~~ Except as provided in sub-subdivision d. of this subdivision, obligated resources do not include funds appropriated to the Board of Governors or the institution from the General Fund by the General Assembly from funds derived from general tax and other revenues of the State, and obligated resources do not include tuition payment by students."

**AMEND REGULATION OF UNC INSTITUTIONAL TRUST FUNDS AND FUNDS OF UNC HEALTH CARE SYSTEM**

**SECTION 9.6E.(a)** G.S. 116-36.1 reads as rewritten:

"**§ 116-36.1. Regulation of institutional trust funds.**

(a) The Board is responsible for the custody and management of the trust funds of the University of North Carolina and of each institution. The Board shall adopt uniform policies and procedures applicable to the deposit, investment, and administration of these funds which shall assure that the receipt and expenditure of such funds is properly authorized and that the funds are appropriately accounted for. The Board may delegate authority, through the president, to the respective chancellors of the institutions when such delegation is necessary or prudent to enable the institution to function in a proper and expeditious manner.

(b) Trust funds ~~shall be deposited with the State Treasurer who shall hold them in trust in separate accounts in the name of the University of North Carolina and of each institution. The cash balances of these accounts may be pooled for investment purposes, but investment earnings shall be credited pro rata to each participating account. For purposes of distribution of investment earnings, all trust funds of an institution shall be deemed a single account.~~

~~(c) Moneys deposited with the State Treasurer in trust fund accounts pursuant to this section,~~ and investment earnings thereon, are available for expenditure by each institution without further authorization from the General Assembly.

(d) Trust funds are subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes but are not subject to the provisions of the State Budget Act except for capital improvements projects which shall be authorized and executed in accordance with G.S. 143C-8-8 and G.S. 143C-8-9.

(e) Each institution shall submit such reports or other information concerning its trust fund accounts as may be required by the ~~Director of the Budget.~~Board.

(f) Trust funds or the investment income therefrom shall not take the place of State appropriations or any part thereof, but any portion of these funds available for general institutional purposes is appropriated and shall be used to supplement State appropriations to the end that the institution may improve and increase its functions, may enlarge its areas of service, and may become more useful to a greater number of people.

(g) As used in this section, "trust funds" means:

(1) Moneys, or the proceeds of other forms of property, received by an institution as gifts, devises, or bequests that are neither presumed nor designated to be gifts, devises, or bequests to the endowment fund of the institution;

(2) Moneys received by an institution pursuant to grants from, or contracts with, the United States government or any agency or instrumentality thereof;

(3) Moneys received by an institution pursuant to grants from, or contracts with, any State agencies, any political subdivisions of the State, any other states or nations or political subdivisions thereof, or any private entities whereby the institution undertakes, subject to terms and conditions specified by the entity providing the moneys, to conduct research, training or public service programs, or to provide financial aid to students;

(4) Moneys collected by an institution to support extracurricular activities of students of the institution;

(5) Moneys received from or for the operation by an institution of activities established for the benefit of scholarship funds or student activity programs;

(6) Moneys received from or for the operation by an institution of any of its self-supporting auxiliary enterprises, including institutional student auxiliary enterprise funds for the operation of housing, food, health, and laundry services;

(7) Moneys received by an institution in respect to fees and other payments for services rendered by medical, dental or other health care professionals under an organized practice plan approved by the institution or under a contractual agreement between the institution and a hospital or other health care provider;

(8) The net proceeds from the disposition effected pursuant to Chapter 146, Article 7, of any interest in real property owned by or under the supervision and control of an institution if the interest in real property had first been acquired by gift, devise, or bequest or through expenditure of moneys defined in this subsection ~~(g)~~ as "trust funds," except the net proceeds from the disposition of an interest in real property first acquired by the institution through expenditure of moneys received as a grant from a State agency;

(9) Moneys received from the operation and maintenance of institutional forests and forest farmlands, provided, that such moneys shall be used, when used, by the institution for support of forest-related research, teaching, and public service programs;

(10) Moneys received from an activity authorized by G.S. 66-58(b)(8)m., n., and o.;

(11) Moneys deposited to the State Education Assistance Authority Fund pursuant to G.S. 116-209.3.

(h) ~~Notwithstanding the provisions of subsection (b) of this section, the Board may designate as the official depository of the funds identified in subsection (g)(7) of this section one or more banks or trust companies in this State. The amount of funds on deposit in an official depository shall be fully secured by deposit insurance, surety bonds, or investment securities of such nature, in such amounts, and in such manner as is prescribed by the State Treasurer for the security of public deposits generally. The available cash balance of funds deposited pursuant to this subsection shall be invested in interest-bearing deposits and investments so that the rate of return equals that realized from the investment of State funds generally.~~ The Board may authorize, through the President, that the chancellors may deposit or invest each institution's available trust fund cash balances in interest-bearing accounts and other investments as may be authorized by the Board in the exercise of its sound discretion, without regard to any statute or rule of law relating to the investment of funds by fiduciaries.

(i) The cash balances on hand as of June 30, 1978, and all future receipts accruing thereafter, of funds identified in this section are hereby appropriated to the use of the University of North Carolina and its constituent institutions."

**SECTION 9.6E.(b)** G.S. 116-37(e) reads as rewritten:

"(e) Finances. – The University of North Carolina Health Care System shall be subject to the provisions of the State Budget Act, except for trust funds as provided in G.S. 116-36.1 and G.S. 116-37.2. The Chief Executive Officer, subject to the board of directors, shall be responsible for all aspects of budget preparation, budget execution, and expenditure reporting. All operating funds of the University of North Carolina Health Care System may be budgeted and disbursed through special fund codes, maintaining separate auditable accounts for the University of North Carolina Hospitals at Chapel Hill and the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill. All receipts of the University of North Carolina Health Care System may be deposited directly to the special fund codes, and except for General Fund appropriations, all receipts of the University of North Carolina Hospitals at Chapel Hill may be invested pursuant to ~~G.S. 147-69.2(b3).~~ G.S. 116-37.2(h).General Fund appropriations for support of the University of North Carolina Hospitals at Chapel Hill shall be budgeted in a General Fund code under a single purpose, "Contribution to University of North Carolina Hospitals at Chapel Hill Operations" and be transferable to a special fund operating code as receipts."

**SECTION 9.6E.(c)** G.S. 116-37.2 reads as rewritten:

"**§ 116-37.2. Regulation of University of North Carolina Hospitals at Chapel Hill Funds.**

(a) As used in this section, "funds" means:

(1) Moneys, or the proceeds of other forms of property, received by the University of North Carolina Hospitals at Chapel Hill as gifts, devises, or bequests.

(2) Moneys received by the University of North Carolina Hospitals at Chapel Hill pursuant to grants from, or contracts with, the United States government or any agency or instrumentality thereof.

(3) Moneys received by the University of North Carolina Hospitals at Chapel Hill pursuant to grants from, or contracts with, any State agencies, any political subdivisions of the State, any other states or nations or political subdivisions thereof, or any private entities whereby the University of North Carolina Hospitals at Chapel Hill undertakes, subject to terms and conditions specified by the entity providing the moneys, to conduct research, training, or public service programs.

(4) Moneys received from or for the operation by the University of North Carolina Hospitals at Chapel Hill of any of its self-supporting auxiliary enterprises, including the Liability Insurance Trust Fund.

(5) Moneys received by the University of North Carolina Hospitals at Chapel Hill in respect to fees and other payments for services it renders in its hospital and/or clinical operations.

(5a) Moneys received by the University of North Carolina Hospitals at Chapel Hill in respect to borrowings for capital equipment or construction projects to further services it renders in either or both of its hospital or clinical operations.

(6) The net proceeds from the disposition effected pursuant to Article 7 of Chapter 146 of the General Statutes of any interest in real property owned by or under the supervision and control of the University of North Carolina Hospitals at Chapel Hill if the interest in real property had first been acquired by gift, devise, or bequest or through expenditure of moneys defined in this subsection, except the net proceeds from the disposition of an interest in real property first acquired by the University of North Hospitals at Chapel Hill through expenditure of moneys received as a grant from a State agency.

(b) The Board of Directors of the University of North Carolina Health Care System, as established in G.S. 116-37(b), is responsible for the custody and management of the funds of the University of North Carolina Hospitals at Chapel Hill. The Board shall adopt uniform policies and procedures applicable to the deposit, investment, and administration of these funds, which shall assure that the receipt and expenditure of such funds is properly authorized

and that the funds are appropriately accounted for. The Board may delegate authority, through the Chief Executive Officer of the University of North Carolina Health Care System to the President of the University of North Carolina Hospitals at Chapel Hill, when such delegation is necessary or prudent to enable the University of North Carolina Hospitals at Chapel Hill to function in a proper and expeditious manner.

(c) Funds under this section ~~shall be deposited with the State Treasurer who shall hold them in trust in the name of the University of North Carolina Hospitals at Chapel Hill.~~

~~(d) Funds deposited with the State Treasurer in an account pursuant to this section,~~ and investment earnings ~~thereon,~~ thereon are available for expenditure by the University of North Carolina Hospitals at Chapel Hill without further authorization from the General Assembly.

(e) Funds under this section are subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes but are not subject to the provisions of the ~~Executive~~ State Budget Act except for capital improvements projects, which shall be authorized and executed in accordance with ~~G.S. 143-18.1.~~G.S. 143C-8-8 and G.S. 143C-8-9.

(f) The University of North Carolina Hospitals at Chapel Hill shall submit such reports or other information concerning its fund accounts under this section as may be required by the ~~Director of the Budget.~~Board of Directors of the University of North Carolina Health Care System.

(g) Funds under this section, or the investment income therefrom, shall not take the place of State appropriations or any part thereof, but any portion of these funds available for general institutional purposes shall be used to supplement State appropriations to the end that the University of North Carolina Hospitals at Chapel Hill may improve and increase their functions, may enlarge their areas of service, and may become more useful to a greater number of people.

(h) ~~Notwithstanding the provisions of subsection (c) of this section, the Board may designate as the official depository of the funds identified in subdivisions (a)(4), (a)(5), and (a)(6) of this section one or more banks or trust companies in this State for any investments authorized by G.S. 147-69.2(b3).~~The Board of Directors of the University of North Carolina Health Care System may deposit or invest the funds under this section in interest-bearing accounts and other investments in the exercise of its sound discretion, without regard to any statute or rule of law relating to the investment of funds by fiduciaries."

**UNC/INSTITUTIONAL EXPENDITURE BENCHMARKS**

**SECTION 9.6F.(a)** G.S. 116-31.10 reads as rewritten:

"**§ 116-31.10. Powers of Board regarding certain purchasing contracts.**

(a) Notwithstanding G.S. 143-53.1 or G.S. 143-53(a)(2), the expenditure benchmark for a special responsibility constituent institution with regard to competitive bid procedures and the bid value benchmark shall be an amount not greater than five hundred thousand dollars ($500,000). The Board shall set the benchmark for each institution from time to time. In setting an institution's benchmark in accordance with this section, the Board shall consider the institution's overall capabilities including staff resources, purchasing compliance reviews, and audit reports. The Board shall also consult with the Director of the Division of Purchase and Contract and the Director of the Budget prior to setting the benchmark.

(b) Each institution with an expenditure benchmark greater than two hundred fifty thousand dollars ($250,000) shall comply with this subsection for any purchase greater than ~~two hundred fifty thousand dollars ($250,000)~~the institution's benchmark set by the Board but not greater than five hundred thousand dollars ($500,000). This institution shall submit to the Division of Purchase and Contract for that Division's approval or other action deemed necessary by the Division a copy of all offers received and the institution's recommendation of award or other action. Notice of the Division's decision shall be sent to that institution. The institution shall then proceed with the award of contract or other action recommended by the Division."

**SECTION 9.6F.(b)** This section becomes effective October 1, 2011.

**UNC ASSUME RESPONSIBILITY FOR QUALITY ACCEPTANCE INSPECTION PROCESS**

**SECTION 9.6G.(a)** G.S. 143-60 reads as rewritten:

"**§ 143-60. Rules covering certain purposes.**

The Secretary of Administration may adopt, modify, or abrogate rules covering the following purposes, in addition to those authorized elsewhere in this Article:

(1) Requiring reports by State departments, institutions, or agencies of stocks of supplies and materials and equipment on hand and prescribing the form of such reports.

(2) Prescribing the manner in which supplies, materials and equipment shall be delivered, stored and distributed.

(3) Prescribing the manner of inspecting deliveries of supplies, materials and equipment and making chemicals and/or physical tests of samples submitted with bids and samples of deliveries to determine whether deliveries have been made in compliance with specifications. However, the provisions of this subdivision shall not apply to the constituent institutions of The University of North Carolina. The President of The University of North Carolina shall issue regulations or guidelines for the conducting of quality inspections by constituent institutions to ensure that deliveries have been made in compliance with specifications.

(4) Prescribing the manner in which purchases shall be made in emergencies.

(5) Providing for such other matters as may be necessary to give effect to foregoing rules and provisions of this Article.

(6) Prescribing the manner in which passenger vehicles shall be purchased.

Further, the Secretary of Administration may prescribe appropriate procedures necessary to enable the State, its institutions and agencies, to obtain materials surplus or otherwise available from federal, State or local governments or their disposal agencies."

**SECTION 9.6G.(b)** This section becomes effective October 1, 2011.

**NCSU MAY SELL TIMBER**

**SECTION 9.6H.** Part 1 of Article 3A of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-64.06. North Carolina State University may sell timber.**

Notwithstanding any provision of this Part or Chapter 146 of the General Statutes, the Board of Trustees of North Carolina State University may cause to be severed and sold or transferred timber from any unimproved timberlands owned by or allocated to the University without involvement by the State Surplus Property Agency and without being required to pay any service charge or surcharge to the State Surplus Property Agency. Any such severance shall be reported to the Council of State through the State Property Office. The Board of Trustees may delegate the authority set out above to responsible University officials. The proceeds of any sales or transfers under this section shall be used to support the management of, and programming costs associated with, forest properties owned, allocated, or managed by North Carolina State University."

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

**SECTION 9.8.(a)** There is appropriated from the Escheat Fund income to the Board of Governors of The University of North Carolina the sum of thirty-two million one hundred twenty-two thousand two hundred forty-two dollars ($32,122,242) for the 2011-2012 fiscal year and the sum of thirty-two million one hundred twenty-two thousand two hundred forty-two dollars ($32,122,242) for the 2012-2013 fiscal year to be used for The University of North Carolina Need-Based Financial Aid Program.

**SECTION 9.8.(b)** In addition to the appropriation in subsection (a) of this section, there is appropriated from the Escheat Fund income to the Board of Governors of The University of North Carolina the sum of ninety-five million two hundred thirty-one thousand nine hundred twelve dollars ($95,231,912) for the 2011-2012 fiscal year to be used for The University of North Carolina Need-Based Financial Aid Program.

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

**SECTION 9.8.(d)** There is appropriated from the Escheat Fund income to the Department of Administration, Division of Veterans Affairs, the sum of six million five

hundred twenty thousand nine hundred sixty-four dollars ($6,520,964) for the 2011-2012 fiscal year and the sum of six million five hundred twenty thousand nine hundred sixty-four dollars ($6,520,964) for the 2012-2013 fiscal year to be used for need-based student financial aid.

**SECTION 9.8.(e)** The funds appropriated by this section shall be allocated by the State Educational Assistance Authority (SEAA) for need-based student financial aid in accordance with G.S. 116B-7. If the interest income generated from the Escheat Fund is less than the amounts referenced in this section, the difference may be taken from the Escheat Fund principal to reach the appropriations referenced in this section; however, under no circumstances shall the Escheat Fund principal be reduced below the sum required in G.S. 116B-6(f). If any funds appropriated under this section remain uncommitted for need-based financial aid as of the end of a fiscal year, the funds shall be returned to the Escheat Fund, but only to the extent the funds exceed the amount of the Escheat Fund income for that fiscal year.

**SECTION 9.8.(f)** The State Education Assistance Authority shall perform all of the administrative functions necessary to implement this program of financial aid. The SEAA shall conduct periodic evaluations of expenditures of the scholarship programs to determine if allocations are utilized to ensure access to institutions of higher learning and to meet the goals of the respective programs. SEAA may make recommendations for redistribution of funds to The University of North Carolina, Department of Administration, and the President of the Community College System regarding their respective scholarship programs, who then may authorize redistribution of unutilized funds for a particular fiscal year.

**SECTION 9.8.(g)** The Office of State Budget and Management shall transfer the cash balance of the community college grant program remaining in Budget Code 66801, Fund 6102, to the Escheat Fund.

**UNC NEED-BASED FINANCIAL AID PROGRAM FUNDING SCHEDULE**

**SECTION 9.9.(a)** Of the funds appropriated by this act for the 2011-2012 fiscal year for The University of North Carolina Need-Based Financial Aid Program, the sum of fifty-nine million eight hundred fifty-nine thousand five hundred sixty-two dollars ($59,859,562) shall not be used for expenditures in the 2011-2012 fiscal year but shall be carried forward and held in reserve by the State Education Assistance Authority. The funds carried forward and held in reserve pursuant to this subsection may be disbursed by the State Education Assistance Authority after July 1, 2012, for need-based student financial aid in the 2012-2013 academic year in accordance with G.S. 116B-7.

**SECTION 9.9.(b)** Of the funds appropriated by this act for the 2012-2013 fiscal year for The University of North Carolina Need-Based Financial Aid Program, the sum of fifty-nine million eight hundred fifty-nine thousand five hundred sixty-two dollars ($59,859,562) shall not be used for expenditures in the 2012-2013 fiscal year but shall be carried forward and held in reserve by the State Education Assistance Authority. The funds carried forward and held in reserve pursuant to this subsection may be disbursed by the State Education Assistance Authority after July 1, 2013, for need-based student financial aid in the 2013-2014 academic year in accordance with G.S. 116B-7.

**CONSOLIDATE ASSETS OF MILLENNIUM TEACHING SCHOLARSHIP LOAN PROGRAM AND PROSPECTIVE TEACHERS SCHOLARSHIP LOAN FUND/ GIVE PRIORITY FOR SCHOLARSHIP LOANS FOR PROSPECTIVE TEACHERS TO CERTAIN FORMER TEACHER ASSISTANTS**

**SECTION 9.10.(a)** Effective January 1, 2012, the Millennium Teaching Scholarship Loan Program is abolished.

**SECTION 9.10.(b)** All financial obligations to any student awarded a scholarship loan from the Millennium Teaching Scholarship Loan Program before January 1, 2012, shall be fulfilled with funds from the Scholarship Loan Fund for Prospective Teachers established under G.S. 116-209.33, provided the student remains eligible under the provisions of the Millennium Teaching Scholarship Loan Program. All contractual agreements between a student awarded a scholarship loan from the Millennium Teaching Scholarship Loan Program before January 1, 2012, and the State Education Assistance Authority regarding the loan remain enforceable.

**SECTION 9.10.(c)** The assets and liabilities for the Millennium Teaching Scholarship Loan Program shall be transferred as follows:

(1) Five hundred thousand dollars ($500,000) shall be transferred to the Escheat Fund on July 1, 2011.

(2) The remaining balance of the assets and liabilities shall be transferred to the Scholarship Loan Fund for Prospective Teachers established under G.S. 116-209.33 on January 1, 2012.

**SECTION 9.10.(d)** Notwithstanding the provisions of G.S. 116-209.33 or any other provision of law, when awarding scholarship loans under G.S. 116-209.33, the State Education Assistance Authority shall give priority to any applicant who qualifies for a scholarship loan under G.S. 116-209.33 if the applicant was formerly employed as a teacher assistant at a public school in North Carolina but lost his or her teacher assistant position in the State public school system as a result of a reduction in force.

**LIMIT CERTAIN FINANCIAL AID GRANTS TO THE TRADITIONAL TIME PERIOD REQUIRED TO EARN A BACCALAUREATE DEGREE**

**SECTION 9.11.(a)** Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-25.1. Limit receipt of The University of North Carolina need-based financial aid grants to traditional time period required to earn baccalaureate degree.**

(a) Except as otherwise provided by this section, a student shall not receive a grant from The University of North Carolina Need-Based Financial Aid Program for more than nine full-time academic semesters, or its equivalent if enrolled part-time, unless the student is enrolled in a program officially designated by the Board of Governors as a five-year degree program. If a student is enrolled in such a five-year degree program, then the student shall not receive a need-based grant from The University of North Carolina Need-Based Financial Aid Program for more than 11 full-time academic semesters or its equivalent if enrolled part-time.

(b) Upon application by a student, the student may receive a grant for one additional part-time or full-time academic semester as appropriate, if the student demonstrates that any of the following have substantially disrupted or interrupted the student's pursuit of a degree: (i) a military service obligation, (ii) serious medical debilitation, (iii) a short-term or long-term disability, or (iv) other extraordinary hardship, including inability to enroll in the appropriate courses due to reduced course offerings. The Board of Governors shall establish the appropriate procedures to implement the additional semester extension provided by this subsection."

**SECTION 9.11.(b)** The Fiscal Research Division, in cooperation with The University of North Carolina, the North Carolina Community College System, the North Carolina Independent Colleges and Universities, Inc., and the State Education Assistance Authority shall study how to track and document the receipt of The University of North Carolina need-based grants, North Carolina Community College need-based grants, and the private institutions of higher education need-based scholarships by students who enroll in both public and private institutions of higher education while pursuing a baccalaureate or associate degree so that no student receives a combination of these grants or scholarships that exceeds a cumulative total of nine full-time academic semesters or 11 full-time academic semesters as appropriate. In addition, the study shall (i) consider the need to grant a waiver to the limit imposed on receipt of need-based grants or scholarships for those students who encounter legitimate disruptions or interruptions of the academic pursuit of a degree and (ii) determine the appropriate criteria and procedure for extending the eligibility to receive those types of financial aid for an additional period of time. The study shall also examine any potential impact on college completion rates.

The Fiscal Research Division shall report its findings and recommendations, including any legislative recommendations, by March 1, 2012, to the Joint Legislative Education Oversight Committee and to the Education Appropriation Subcommittees of the House of Representatives and the Senate.

**SECTION 9.11.(c)** Subsection (a) of this section is effective for the 2012-2013 academic year and each subsequent fiscal year.

**ACADEMIC COMMON MARKET**

**SECTION 9.12.(a)** Notwithstanding G.S. 116-43.10, the Board of Governors of The University of North Carolina shall not participate in the Academic Common Market for the purpose of accepting new students for the 2012-2013 academic year, and no new students shall

be allowed to enroll through the Academic Common Market program into The University of North Carolina graduate programs for the 2012-2013 academic year.

**SECTION 9.12.(b)** This section does not affect a student enrolled in The University of North Carolina System under the Academic Common Market program prior to the 2012-2013 academic year; that student may continue to pay in-State tuition as long as the student is enrolled in that graduate program.

**ELIMINATE PRIVATE MEDICAL SCHOOL AID**

**SECTION 9.14.** G.S. 116-21.6 is repealed.

**TRANSFER NORTH CAROLINA ARBORETUM RESPONSIBILITIES TO WESTERN CAROLINA**

**SECTION 9.15.(a)** G.S. 116-242 reads as rewritten:

"**§ 116-242. Administration of Arboretum; acceptance of gifts and grants.**

The Arboretum shall be administered by The University of North Carolina and through the Board of Directors established in G.S. 116-243. State funds for the administration of the Arboretum shall be appropriated to The University of North Carolina ~~for the University of North Carolina at Asheville. The~~ for Western Carolina University to administer on behalf of the arboretum. The North Carolina Arboretum and The University of North Carolina may receive gifts and grants to be used for development or operation of the Arboretum."

**SECTION 9.15.(b)** G.S. 116-243 reads as rewritten:

"**§ 116-243. Board of directors established; appointments.**

A board of directors to govern the operation of the Arboretum is established, to be appointed as follows:

(1) Two by the Governor, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year terms.

(2) Two by the General Assembly, in accordance with G.S. 120-121, upon the recommendation of the President Pro Tempore of the Senate, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year terms.

(3) Two by the General Assembly, in accordance with G.S. 120-121, upon the recommendation of the Speaker of the House of Representatives, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year terms.

(4) The President of The University of North Carolina or the President's designee to serve ex officio.

(4a) Two by the President of The University of North Carolina. Members shall be appointed for four-year terms, except that the initial terms shall be as provided otherwise by law.

~~(5) The chancellors, chief executive officers, or their designees of the following institutions of higher education: North Carolina State University, Western Carolina University, The University of North Carolina at Asheville, Mars Hill College, and Warren Wilson College, to serve ex officio.~~

~~(6) The President of Western North Carolina Arboretum, Inc., to serve ex officio.~~

(7) ~~Six~~ Eight by the Board of Governors of The University of North Carolina, ~~initially, three for one-year terms, and three for three-year terms. Successors shall be appointed for four-year terms. One shall be an active grower of nursery stock, and one other shall represent the State's garden clubs.~~ Members shall be appointed for four-year terms, except that the initial terms shall be as otherwise provided by law.

(8) The executive director of the Arboretum ~~and the Executive Vice President of Western North Carolina Development Association~~ shall serve ex officio as ~~nonvoting members of the board of directors.~~ a nonvoting member of the Board of Directors.

(9) The President of The North Carolina Arboretum Society, Inc., to serve ex officio.

All appointed members may serve two full four-year terms following the initial appointment and then may not be reappointed until they have been absent for at least one year.

Members serve until their successors have been appointed. Appointees to fill vacancies serve for the remainder of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. Initial terms begin ~~July 1, 1986.~~July 1, 2011.

The ~~chairman of the board of directors~~ Chair of the Board of Directors shall be elected biennially by majority vote of the directors.

The ~~executive director~~ Executive Director of the Arboretum shall report to the ~~board of directors.~~President of The University of North Carolina or the President's designee and to the Board of Directors."

**SECTION 9.15.(c)** G.S. 116-244 reads as rewritten:

"**§ 116-244. Duties of board of directors.**

The ~~board of directors~~ Board of Directors of the Arboretum has the following duties and responsibilities:

(1) Development of the policies and procedures concerning the use of the land and facilities being developed as part of the Western North Carolina Arboretum, Inc.;

(2) Approval of plans for any buildings to be constructed on the facility;

(3) Maintenance and upkeep of buildings and all properties;

(4) Approval of permanent appointments to the staff of the Arboretum;

(5) Recommendations to the General Administration of candidates for ~~executive director~~ Executive Director of the Arboretum;

(6) Recommendations to the General Administration for necessary termination of the ~~executive director~~ Executive Director or other personnel of the Arboretum;

(7) Ensurance of appropriate liaison between the Arboretum and the U. S. Forest Service, the National Park Service,~~the Western North Carolina Arboretum, Inc.,~~The North Carolina Arboretum Society, Inc., Bent Creek Institute, Inc., Centers for Environmental and Climatic Interaction, Inc., NOAA Cooperative Institute for Climate and Satellites, and other scientific and economic development agencies and organizations of interest to and involved in the work at the Arboretum;

(8) Development of various policies and directives, including the duties of the ~~executive director,~~ Executive Director, to be prepared jointly by the members of the ~~board of directors and the executive director;~~Board of Directors and the Executive Director;

(9) Approval of annual expenditures and budget requests to be submitted to ~~the Board of Governors.~~The University of North Carolina General Administration.

The ~~board of directors~~ Board of Directors shall meet at least twice a year, and more frequently on the call of the ~~chairman~~ Chair or at the request of at least 10 members of the ~~board.~~ Board. Meetings shall be held at the Arboretum, ~~the University of North Carolina at Asheville, or Western Carolina University.~~any campus of a constituent institution of The University of North Carolina, or at other public locations in support of the Arboretum mission and purposes."

**SECTION 9.15.(d)** Effective July 1, 2011, the President of The University of North Carolina shall appoint one member pursuant to G.S. 116-243(4a) as enacted by subsection (b) of this section to serve an initial term of two years to end July 1, 2013, and one member to serve an initial term of four years to end July 1, 2015; successors shall be appointed to four-year terms as provided by G.S. 116-243. Effective July 1, 2011, the Board of Governors of The University of North Carolina shall appoint one of the new members to be added to Board of Directors pursuant to G.S. 116-243(7) as amended by subsection (b) of this section to serve an initial term of two years to end July 1, 2013, and the other new member to be added to serve an initial term of four years to end July 1, 2015; successors shall be appointed to four year terms as provided by G.S. 116-243.

**SPECIAL RESPONSIBILITY CONSTITUENT INSTITUTION AUDITS**

**SECTION 9.16.** Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"**§ 116-30.8. Special responsibility constituent institutions: annual audit by State Auditor or certified public accountant.**

Each special responsibility constituent institution shall be audited annually. The Chancellor of the special responsibility constituent institution may use State funds to contract with the State Auditor or with a certified public accountant to perform the audit. The audit shall be provided to the Chancellor and Board of Trustees of the special responsibility institution, the Board of Governors of The University of North Carolina, and the State Auditor. The audit shall also be included in the State's Comprehensive Annual Financial Report (CAFR).

The Board of Governors of The University of North Carolina shall ensure that all special responsibility constituent institutions are audited in accordance with this section."

**NEED-BASED SCHOLARSHIPS FOR STUDENTS ATTENDING PRIVATE INSTITUTIONS OF HIGHER EDUCATION**

**SECTION 9.18.(a)** Chapter 116 of the General Statutes is amended by adding a new Article to read:

"Article 34.

"Need-Based Scholarships for Students Attending Private Institutions of Higher Education.

"**§ 116-80. Definitions.**

The following definitions apply to this Article:

(1) Academic year. – A period of time in which a student is expected to complete the equivalent of at least two semesters' or three quarters' academic work.

(2) Authority. – The State Education Assistance Authority created by Article 23 of Chapter 116 of the General Statutes.

(3) Eligible private postsecondary institution. – A school that is any of the following:

a. A nonprofit postsecondary educational institution with a main permanent campus located in this State that is not owned or operated by the State of North Carolina or by an agency or political subdivision of the State or by any combination thereof that satisfies all of the following:

1. Is accredited by the Southern Association of Colleges and Schools under the standards of the College Delegate Assembly of the Association or by the New England Association of Schools and Colleges through its Commission on Institutions of Higher Education.

2. Awards a postsecondary degree as defined in G.S. 116-15.

b. A postsecondary institution owned or operated by a hospital authority as defined in G.S. 131E-16(14) or school of nursing affiliated with a nonprofit postsecondary educational institution as defined in sub-subdivision a. of this subsection.

(4) Main permanent campus. – A campus owned by the eligible private postsecondary institution that provides permanent on-premises housing, food services, and classrooms with full-time faculty members and administration that engages in postsecondary degree activity as defined in G.S. 116-15.

(5) Matriculated status. – Being recognized as a student in a defined program of study leading to a degree, diploma, or certificate at an eligible private postsecondary institution.

(6) Scholarship. – A scholarship for education awarded under this Article.

(7) Title IV. – Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070, et seq.

"**§ 116-81. Eligibility requirements for scholarships.**

In order to be eligible to receive a scholarship under this Article, a student seeking a degree, diploma, or certificate at an eligible private postsecondary institution must meet all of the following requirements:

(1) Only needy North Carolina students are eligible to receive scholarships. For purposes of this subsection, "needy North Carolina students" are those eligible students whose expected family contribution under the federal methodology does not exceed five thousand dollars ($5,000).

(2) The student must meet all other eligibility requirements for the federal Pell Grant, with the exception of the expected family contribution.

(3) The student must qualify as a legal resident of North Carolina and as a resident for tuition purposes in accordance with definitions of residency that may from time to time be adopted by the Board of Governors and published in the residency manual of the Board of Governors.

(4) The student must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status at an eligible private postsecondary institution.

(5) In order to continue to be eligible for a scholarship for the student's second and subsequent academic years, the student must meet achievement standards by maintaining satisfactory academic progress in a course of study in accordance with the standards and practices used for federal Title IV programs by the eligible private postsecondary institution in which the student is enrolled.

(6) A student shall not receive a scholarship under this Article for more than four full academic years.

"**§ 116-82. Scholarship amounts; amounts dependent on availability of funds.**

(a) Subject to the sum appropriated by the General Assembly for an academic year to be awarded as scholarships under this Article, a scholarship awarded under this Article to a student at an eligible private postsecondary institution shall be based upon the enrollment status and expected family contribution of the student and shall not exceed four thousand dollars ($4,000) per academic year, including any federal Pell Grant, to be used for the costs of attendance as defined for federal Title IV programs.

(b) Subject to the maximum amounts provided in this section, the Authority shall have the power to determine the actual scholarship amounts disbursed to students in any given year based on the sum appropriated for purposes of this Article by the General Assembly for that academic year and any unexpended funds that may be available pursuant to G.S. 116-83. If the sum appropriated is not sufficient to fully fund the scholarships to the maximum amount, all scholarships shall be reduced equally, to the extent practicable, so that every eligible applicant shall receive a proportionate scholarship amount.

(c) The minimum award of a scholarship under this Article shall be one hundred dollars ($100.00).

"**§ 116-83. Administration; unexpended scholarship funds do not revert.**

(a) The scholarships provided for in this Article shall be administered by the Authority under rules adopted by the Authority in accordance with the provisions of this Article.

(b) The Authority may use up to one and one-half percent (1.5%) of the funds appropriated for scholarships under this Article for administrative purposes.

(c) Scholarship funds unexpended shall remain available for future scholarships to be awarded under this Article."

**SECTION 9.18.(b)** G.S. 115C-499.1(3) reads as rewritten:

"**§ 115C-499.1. Definitions.**

The following definitions apply to this Article:

...

(3) Eligible postsecondary institution. – A school that is:

a. A constituent institution of The University of North Carolina as defined in G.S. 116-2(4); or

b. A community college as defined in ~~G.S. 115D-2(2);~~G.S. 115D-2(2).

~~c. A nonprofit postsecondary institution as defined in G.S. 116-22(1) or G.S. 116-43.5(a)(1); or~~

~~d. A postsecondary institution owned or operated by a hospital authority as defined in G.S. 131E-16(14) or school of nursing affiliated with a nonprofit postsecondary institution as defined in G.S. 116-22(1).~~

...."

**SECTION 9.18.(c)** G.S. 116-19, 116-20, 116-21, 116-21.1, 116-21.2, 116-21.3, 116-21.4, 116-22, and 116-43.5 are repealed.

**SECTION 9.18.(d)** The State Education Assistance Authority shall report no later than June 1, 2013, to the Joint Legislative Education Oversight Committee regarding the

implementation of this section. The report shall contain, for the 2012-2013 academic year, the amount of scholarship and grant money disbursed, the number of students eligible for the funds, the number of eligible students receiving the funds, and a breakdown of the eligible private postsecondary institutions that received the funds.

**SECTION 9.18.(e)** G.S. 90-332.1(a)(4a) reads as rewritten:

"(a) It is not the intent of this Article to regulate members of other regulated professions who do counseling in the normal course of the practice of their profession. Accordingly, this Article does not apply to:

...

(4a) Any person counseling within the scope of employment at: (i) a local community college as defined in G.S. 115D-2(2); (ii) a public higher education institution as defined in G.S. 116-2(4); or (iii) ~~a private higher education institution as defined in G.S. 116-22(1).~~ a nonprofit postsecondary educational institution as described in G.S. 116-80 that is not a seminary, Bible school, Bible college, or similar religious institution."

**SECTION 9.18.(f)** G.S. 105-278.4(a) reads as rewritten:

"(a) Buildings. – Buildings, the land they actually occupy, and additional land reasonably necessary for the convenient use of any such building shall be exempted from taxation if all of the following requirements are met:

(1) Owned by either of the following:

a. An educational institution; or

b. A nonprofit entity for the sole benefit of a constituent or affiliated institution of The University of North Carolina, ~~an institution as defined in G.S. 116-22,~~ a nonprofit postsecondary educational institution as described in G.S. 116-80 that is not a seminary, Bible school, Bible college, or similar religious institution, a North Carolina community college, or a combination of these;

...."

**SECTION 9.18.(g)** G.S. 116-11(10a) reads as rewritten:

"(10a) The Board of Governors, the State Board of Community Colleges, and the State Board of Education, in consultation with ~~private higher education institutions defined in G.S. 116-22(1),~~ nonprofit postsecondary educational institutions shall plan a system to provide an exchange of information among the public schools and institutions of higher education to be implemented no later than June 30, 1995. As used in this section, "institutions of higher education" shall ~~mean~~ mean (i) public higher education institutions defined in G.S. 116-143.1(a)(3), and ~~those private higher education institutions defined in G.S. 116-22(1)~~ (ii) those nonprofit postsecondary educational institutions as described in G.S. 116-80 that are not seminaries, Bible schools, Bible colleges, or similar religious institutions and that choose to participate in the information exchange. The information shall include:

a. The number of high school graduates who apply to, are admitted to, and enroll in institutions of higher education;

b. College performance of high school graduates for the year immediately following high school graduation including each student's: need for remedial coursework at the institution of higher education that the student attends; performance in standard freshmen courses; and continued enrollment in a subsequent year in the same or another institution of higher education in the State;

c. The progress of students from one institution of higher education to another; and

d. Consistent and uniform public school course information including course code, name, and description.

The Department of Public Instruction shall generate and the local school administrative units shall use standardized transcripts in an automated format for applicants to higher education institutions. The standardized transcript shall include grade point average, class rank, end-of-course test scores, and uniform course information including course code, name, units earned toward graduation, and credits earned for admission from an

institution of higher education. The grade point average and class rank shall be calculated by a standard method to be devised by the institutions of higher education.

The Board of Governors shall coordinate a joint progress report on the implementation of the system to provide an exchange of information among the public and independent colleges and universities, the community colleges, and the public schools. The report shall be made to the Joint Legislative Education Oversight Committee no later than February 15, 1993, and annually thereafter."

**SECTION 9.18.(h)** G.S. 143-49(6) reads as rewritten:

"(6) To make available to nonprofit corporations operating charitable hospitals, to local nonprofit community sheltered workshops or centers that meet standards established by the Division of Vocational Rehabilitation of the Department of Health and Human Services, to private nonprofit agencies licensed or approved by the Department of Health and Human Services as child placing agencies, residential child-care facilities, private nonprofit rural, community, and migrant health centers designated by the Office of Rural Health and Resource Development, to private higher education institutions that are ~~defined as "institutions" in G.S. 116-22(1),~~ described as nonprofit postsecondary educational institutions in G.S. 116-80 that are not seminaries, Bible schools, Bible colleges, or similar religious institutions and to counties, cities, towns, local school administrative units, governmental entities and other subdivisions of the State and public agencies thereof in the expenditure of public funds, the services of the Department of Administration in the purchase of materials, supplies and equipment under such rules, regulations and procedures as the Secretary of Administration may adopt. In adopting rules and regulations any or all provisions of this Article may be made applicable to such purchases and contracts made through the Department of Administration, and in addition the rules and regulations shall contain a requirement that payment for all such purchases be made in accordance with the terms of the contract."

**SECTION 9.18.(i)** Subsections (a), (d), and (i) of this section become effective July 1, 2011. Article 34 of Chapter 116 of the General Statutes, as enacted by subsection (a) of this section, applies to the 2012-2013 academic year and each subsequent academic year, except that the rule-making authority for the State Education Assistance Authority under G.S. 116-83(a) becomes effective immediately on July 1, 2011. Subsections (b), (c), (e), (f), (g), and (h) of this section become effective July 1, 2012.

**CONSTITUENT INSTITUTIONS MAY PURCHASE MOTOR VEHICLES INDEPENDENT OF MOTOR FLEET MANAGEMENT**

**SECTION 9.19.** G.S. 143-341(8)i.3. reads as rewritten:

"**§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

...

(8) General Services:

...

i. To establish and operate a central motor pool and such subsidiary related facilities as the Secretary may deem necessary, and to that end:

...

3. To require on a schedule determined by the Department all State agencies to transfer ownership, custody or control of any or all passenger motor vehicles within the ownership, custody or control of that agency to the Department, except those motor vehicles under the ownership, custody or control of the Highway ~~Patrol or~~ Patrol, the State Bureau of ~~Investigation~~ Investigation, or the constituent institutions of The University of North Carolina which are used primarily for law-enforcement purposes, and except those motor

vehicles under the ownership, custody or control of the Department of Crime Control and Public Safety for Butner Public Safety which are used primarily for law-enforcement, fire, or emergency purposes."

## PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES

### CHILD CARE SUBSIDY RATES

**SECTION 10.1.(a)** The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the State median income, adjusted for family size.

**SECTION 10.1.(b)** Fees for families who are required to share in the cost of care shall be established based on a percent of gross family income and adjusted for family size. Fees shall be determined as follows:

| FAMILY SIZE | PERCENT OF GROSS FAMILY INCOME |
|---|---|
| 1-3 | 10% |
| 4-5 | 9% |
| 6 or more | 8%. |

**SECTION 10.1.(c)** Payments for the purchase of child care services for low-income children shall be in accordance with the following requirements:

(1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that meet the minimum licensing standards that are participating in the subsidized child care program shall be paid the one-star county market rate or the rate they charge privately paying parents, whichever is lower, unless prohibited by Section 10.7(g) of this act.

(2) Licensed child care centers and homes with two or more stars shall receive the market rate for that rated license level for that age group or the rate they charge privately paying parents, whichever is lower, unless prohibited by Section 10.7(g) of this act.

(3) Nonlicensed homes shall receive fifty percent (50%) of the county market rate or the rate they charge privately paying parents, whichever is lower.

(4) No payments shall be made for transportation services or registration fees charged by child care facilities.

(5) Payments for subsidized child care services for postsecondary education shall be limited to a maximum of 20 months of enrollment.

(6) The Department of Health and Human Services shall implement necessary rule changes to restructure services, including, but not limited to, targeting benefits to employment.

**SECTION 10.1.(d)** Provisions of payment rates for child care providers in counties that do not have at least 50 children in each age group for center-based and home-based care are as follows:

(1) Except as applicable in subdivision (2) of this subsection, payment rates shall be set at the statewide or regional market rate for licensed child care centers and homes.

(2) If it can be demonstrated that the application of the statewide or regional market rate to a county with fewer than 50 children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied.

**SECTION 10.1.(e)** A market rate shall be calculated for child care centers and homes at each rated license level for each county and for each age group or age category of enrollees and shall be representative of fees charged to parents for each age group of enrollees within the county. The Division of Child Development shall also calculate a statewide rate and regional market rates for each rated license level for each age category.

**SECTION 10.1.(f)** Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the program that provides for the purchase of care in child care facilities for minor children of needy families. Except as authorized by Section 10.7(g) of this act, no separate licensing requirements shall be used to select facilities to participate. In addition, child care facilities

shall be required to meet any additional applicable requirements of federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the requirements established by other State law and by the Social Services Commission.

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

**SECTION 10.1.(g)** Payment for subsidized child care services provided with Work First Block Grant funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

**SECTION 10.1.(h)** Noncitizen families who reside in this State legally shall be eligible for child care subsidies if all other conditions of eligibility are met. If all other conditions of eligibility are met, noncitizen families who reside in this State illegally shall be eligible for child care subsidies only if at least one of the following conditions is met:

(1) The child for whom a child care subsidy is sought is receiving child protective services or foster care services.

(2) The child for whom a child care subsidy is sought is developmentally delayed or at risk of being developmentally delayed.

(3) The child for whom a child care subsidy is sought is a citizen of the United States.

**CHILD CARE ALLOCATION FORMULA**

**SECTION 10.2.(a)** The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) Smart Start subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall use the following method when allocating federal and State child care funds, not including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

(1) Funds shall be allocated to a county based upon the projected cost of serving children under age 11 in families with all parents working who earn less than seventy-five percent (75%) of the State median income.

(2) No county's allocation shall be less than ninety percent (90%) of its State fiscal year 2001-2002 initial child care subsidy allocation.

**SECTION 10.2.(b)** The Department of Health and Human Services may reallocate unused child care subsidy voucher funds in order to meet the child care needs of low-income families. Any reallocation of funds shall be based upon the expenditures of all child care subsidy voucher funding, including Smart Start funds, within a county.

**SECTION 10.2.(c)** Notwithstanding subsection (a) of this section, the Department of Health and Human Services shall allocate up to twenty million dollars ($20,000,000) in federal block grant funds and State funds appropriated for fiscal years 2011-2012 and 2012-2013 for child care services. These funds shall be allocated to prevent termination of child care services. Funds appropriated for specific purposes, including targeted market rate adjustments given in the past, may also be allocated by the Department separately from the allocation formula described in subsection (a) of this section.

**CHILD CARE FUNDS MATCHING REQUIREMENT**

**SECTION 10.3.** No local matching funds may be required by the Department of Health and Human Services as a condition of any locality's receiving its initial allocation of child care funds appropriated by this act unless federal law requires a match. If the Department reallocates additional funds above twenty-five thousand dollars ($25,000) to local purchasing agencies beyond their initial allocation, local purchasing agencies must provide a twenty percent (20%) local match to receive the reallocated funds. Matching requirements shall not apply when funds are allocated because of a disaster as defined in G.S. 166A-4(1).

**CHILD CARE REVOLVING LOAN**

**SECTION 10.4.** Notwithstanding any law to the contrary, funds budgeted for the Child Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make

loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's cost of administering the program.

**EXPIRATION OF EARLY EDUCATION CERTIFICATION REQUIREMENT**

**SECTION 10.4A.** Section 2 of S.L. 2010-178 reads as rewritten:

"**SECTION 2.** This act is effective when it becomes ~~law.~~law and expires July 1, 2011."

**EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS**

**SECTION 10.5.(a)** Effective July 1, 2011, the North Carolina Partnership for Children, Inc., is dissolved, and the Department of Health and Human Services, Division of Child Development, shall administer the local partnerships' funding. The Division of Child Development shall do the following:

(1) Develop a plan to allocate the North Carolina Partnership for Children, Inc., funds to local partnerships.
(2) Establish guidelines for the use of funds.
(3) Review and approve local partnerships' plans for use of funds.
(4) Create a reporting and evaluation system regarding use of the funds.

The Department shall report on the plan to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than December 1, 2011.

**SECTION 10.5.(a1)** G.S. 120-123(69) reads as rewritten:

"**§ 120-123. Service by members of the General Assembly on certain boards and commissions.**

No member of the General Assembly may serve on any of the following boards or commissions:

...

(69) ~~The North Carolina Partnership for children, Inc.,~~Any local partnerships established pursuant to Part 10B of Article 3 of Chapter 143B of the General ~~Statutes, and all local partnerships established pursuant to this Part.~~ Statutes.

...."

**SECTION 10.5.(b)** G.S. 143B-168.11 reads as rewritten:

"**§ 143B-168.11. Early childhood initiatives; purpose; definitions.**

(a) The purpose of this Part is to establish a framework whereby the General Assembly, upon consultation with the Governor, may support through financial and other ~~means, the North Carolina Partnership for Children, Inc. and comparable~~ means local partnerships, which have as their missions the development of a comprehensive, long-range strategic plan for early childhood development and the provision, through public and private means, of high-quality early childhood education and development services for children and families. It is the intent of the General Assembly that communities be given the maximum flexibility and discretion practicable in developing their plans while remaining subject to the approval of the ~~North Carolina Partnership~~Department of Health and Human Services, Division of Child Development, and accountable to the ~~North Carolina Partnership~~Division and to the General Assembly for their plans and for the programmatic and fiscal integrity of the programs and services provided to implement them.

(b) The following definitions apply in this Part:

~~(1) Board of Directors. – The Board of Directors of the North Carolina Partnership for Children, Inc.~~
(2) Department. – The Department of Health and Human Services.
(2a) Division. – The Division of Child Development within the Department of Health and Human Services.
~~(2a)~~(2b) Early Childhood. – Birth through five years of age.
(3) Local Partnership. – A county or regional private, nonprofit 501(c)(3) organization established to coordinate a local demonstration project, to provide ongoing analyses of their local needs that must be met to ensure that the developmental needs of children are met in order to prepare them to begin school healthy and ready to succeed, and, in consultation with the ~~North Carolina Partnership~~Division and subject to the approval of the ~~North Carolina Partnership,~~Division, to provide programs and services to meet

these needs under this Part, while remaining accountable for the programmatic and fiscal integrity of their programs and services to the ~~North Carolina Partnership.~~Division.

~~(4) North Carolina Partnership. – The North Carolina Partnership for Children, Inc.~~

(5) Secretary. – The Secretary of Health and Human Services."

**SECTION 10.5.(c)** G.S. 143B-168.12 reads as rewritten:

"**§ 143B-168.12. ~~North Carolina Partnership for Children, Inc.; conditions.~~Conditions for receipt of State funds.**

(a) In order to receive State funds, the following conditions shall be met:

~~(1) The North Carolina Partnership shall have a Board of Directors consisting of the following 26 members:~~

~~a. The Secretary of Health and Human Services, ex officio, or the Secretary's designee;~~

~~b. Repealed by Session Laws 1997, c. 443, s. 11A.105.~~

~~c. The Superintendent of Public Instruction, ex officio, or the Superintendent's designee;~~

~~d. The President of the Community Colleges System, ex officio, or the President's designee;~~

~~e. Three members of the public, including one child care provider, one other who is a parent, and one other who is a board chair of a local partnership serving on the North Carolina Partnership local partnership advisory committee, appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate;~~

~~f. Three members of the public, including one who is a parent, one other who is a representative of the faith community, and one other who is a board chair of a local partnership serving on the North Carolina Partnership local partnership advisory committee, appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives;~~

~~g. Twelve members, appointed by the Governor. Three of these 12 members shall be members of the party other than the Governor's party, appointed by the Governor. Seven of these 12 members shall be appointed as follows: one who is a child care provider, one other who is a pediatrician, one other who is a health care provider, one other who is a parent, one other who is a member of the business community, one other who is a member representing a philanthropic agency, and one other who is an early childhood educator;~~

~~h. Repealed by Session Laws 1998-212, s. 12.37B(a), effective October 30, 1998.~~

~~h1. The Chair of the North Carolina Partnership Board shall be appointed by the Governor;~~

~~i. Repealed by Session Laws 1998-212, s. 12.37B(a), effective October 30, 1998.~~

~~j. One member of the public appointed by the General Assembly upon recommendation of the Majority Leader of the Senate;~~

~~k. One member of the public appointed by the General Assembly upon recommendation of the Majority Leader of the House of Representatives;~~

~~l. One member of the public appointed by the General Assembly upon recommendation of the Minority Leader of the Senate;~~

~~m. One member of the public appointed by the General Assembly upon recommendation of the Minority Leader of the House of Representatives; and~~

~~n. The Director of the More at Four Pre-Kindergarten Program, or the Director's designee.~~

~~All members appointed to succeed the initial members and members appointed thereafter shall be appointed for three-year terms. Members may succeed themselves.~~

~~All appointed board members shall avoid conflicts of interests and the appearance of impropriety. Should instances arise when a conflict may be perceived, any individual who may benefit directly or indirectly from the North Carolina Partnership's disbursement of funds shall abstain from participating in any decision or deliberations by the North Carolina Partnership regarding the disbursement of funds.~~

~~All ex officio members are voting members. Each ex officio member may be represented by a designee. These designees shall be voting members. No members of the General Assembly shall serve as members.~~

~~The North Carolina Partnership may establish a nominating committee and, in making their recommendations of members to be appointed by the General Assembly or by the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Majority Leader of the Senate, the Majority Leader of the House of Representatives, the Minority Leader of the Senate, the Minority Leader of the House of Representatives, and the Governor shall consult with and consider the recommendations of this nominating committee.~~

~~The North Carolina Partnership may establish a policy on members' attendance, which policy shall include provisions for reporting absences of at least three meetings immediately to the appropriate appointing authority.~~

~~Members who miss more than three consecutive meetings without excuse or members who vacate their membership shall be replaced by the appropriate appointing authority, and the replacing member shall serve either until the General Assembly and the Governor can appoint a successor or until the replaced member's term expires, whichever is earlier.~~

~~The North Carolina Partnership shall establish a policy on membership of the local boards. No member of the General Assembly shall serve as a member of a local board. Within these requirements for local board membership, the North Carolina Partnership shall allow local partnerships that are regional to have flexibility in the composition of their boards so that all counties in the region have adequate representation.~~

~~All appointed local board members shall avoid conflicts of interests and the appearance of impropriety. Should instances arise when a conflict may be perceived, any individual who may benefit directly or indirectly from the partnership's disbursement of funds shall abstain from participating in any decision or deliberations by the partnership regarding the disbursement of funds.~~

(2) The ~~North Carolina Partnership and the~~ local partnerships shall agree to adopt procedures for ~~its~~ their operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department. The procedures may provide for the confidentiality of personnel files comparable to Article 7 of Chapter 126 of the General Statutes.

(3) The ~~North Carolina Partnership~~Division shall oversee the development and implementation of the local demonstration projects as they are selected and shall approve the ongoing plans, programs, and services developed and implemented by the local partnerships and hold the local partnerships accountable for the financial and programmatic integrity of the programs and services. The ~~North Carolina Partnership~~Division may contract ~~at the State level~~on behalf of local partnerships to obtain services or resources when the ~~North Carolina Partnership~~Division determines it would be more efficient to do so.

In the event that the ~~North Carolina Partnership~~Division determines that a local partnership is not fulfilling its mandate to provide programs and services designed to meet the developmental needs of children in order to prepare them to begin school healthy and ready to succeed and is not being accountable for the programmatic and fiscal integrity of its programs and services, the ~~North Carolina Partnership~~Division may suspend all funds to

the partnership until the partnership demonstrates that these defects are corrected. Further, at its discretion, the ~~North Carolina Partnership~~Division may assume the managerial responsibilities for the partnership's programs and services until the ~~North Carolina Partnership~~Division determines that it is appropriate to return the programs and services to the local partnership.

(4) The ~~North Carolina Partnership~~Division shall develop and implement a comprehensive standard fiscal accountability plan to ensure the fiscal integrity and accountability of State funds ~~appropriated to it and~~allocated to the local partnerships. The standard fiscal accountability plan shall, at a minimum, include a uniform, standardized system of accounting, internal controls, payroll, fidelity bonding, chart of accounts, and contract management and monitoring. The ~~North Carolina Partnership~~Division may contract with outside firms to develop and implement the standard fiscal accountability plan. All local partnerships shall be required to participate in the standard fiscal accountability plan developed and adopted by the ~~North Carolina Partnership~~Division pursuant to this subdivision.

(5) The ~~North Carolina Partnership~~Division shall develop a regional accounting and contract management system which incorporates features of the required standard fiscal accountability plan described in subdivision (4) of ~~subsection (a) of this section.~~this subsection. All local partnerships shall participate in the regional accounting and contract management system.

(6) The ~~North Carolina Partnership~~Division shall develop a formula for allocating direct services funds appropriated for this purpose to local partnerships.

(7) The ~~North Carolina Partnership~~Division may adjust its allocations by up to ten percent (10%) on the basis of local partnerships' performance assessments. In determining whether to adjust its allocations to local partnerships, the ~~North Carolina Partnership~~Division shall consider whether the local partnerships are meeting the outcome goals and objectives of the ~~North Carolina Partnership~~Division and the goals and objectives set forth by the local partnerships in their approved annual program plans.

The ~~North Carolina Partnership~~Division may use additional factors to determine whether to adjust the local partnerships' allocations. These additional factors shall be developed with input from the local partnerships and shall be communicated to the local partnerships when the additional factors are selected. These additional factors may include board involvement, family and community outreach, collaboration among public and private service agencies, and family involvement.

On the basis of performance assessments, local partnerships annually shall be rated "superior", "satisfactory", or "needs improvement".

The ~~North Carolina Partnership~~Division may contract with outside firms to conduct the performance assessments of local partnerships.

(8) The ~~North Carolina Partnership~~Division shall establish a local partnership advisory committee comprised of 15 members. Eight of the members shall be chosen from ~~past board chairs or~~ duly elected officers currently serving on local partnerships' board of directors at the time of appointment and shall serve three-year terms. Seven of the members shall be staff of local partnerships. Members shall be chosen by the ~~Chair of the North Carolina Partnership~~Secretary from a pool of candidates nominated by their respective boards of directors. The local partnership advisory committee shall serve in an advisory capacity to the ~~North Carolina Partnership~~Division and shall establish a schedule of regular meetings. Members shall be chosen from local partnerships on a rotating basis. The advisory committee shall annually elect a chair from among its members.

(9) Repealed by Session Laws 2001-424, s. 21.75(h), effective July 1, 2001.

~~(b) The North Carolina Partnership shall be subject to audit and review by the State Auditor under Article 5A of Chapter 147 of the General Statutes. The State Auditor shall conduct annual financial and compliance audits of the North Carolina Partnership.~~

(c) The ~~North Carolina Partnership~~Division shall require each local partnership to place in each of its contracts a statement that the contract is subject to monitoring by the local partnership and ~~North Carolina Partnership,~~Division, that contractors and subcontractors shall be fidelity bonded, unless the contractors or subcontractors receive less than one hundred thousand dollars ($100,000) or unless the contract is for child care subsidy services, that contractors and subcontractors are subject to audit oversight by the State Auditor, and that contractors and subcontractors shall be subject to the requirements of G.S. 143C-6-22. Organizations subject to G.S. 159-34 shall be exempt from this requirement.

(d) The ~~North Carolina Partnership for Children, Inc.,~~Division shall make a report no later than December 1 of each year to the General Assembly that shall include the following:

(1) A description of the program and significant services and initiatives.
(2) A history of Smart Start funding and the previous fiscal year's expenditures.
(3) The number of children served by type of service.
(4) The type and quantity of services provided.
(5) The results of the previous year's evaluations of the Initiatives or related programs and services.
(6) A description of significant policy and program changes.
(7) Any recommendations for legislative action.

(e) The ~~North Carolina Partnership~~ Division shall develop guidelines for local partnerships to follow in selecting capital projects to fund. The guidelines shall include assessing the community needs in relation to the quantity of child care centers, assessing the cost of purchasing or constructing new facilities as opposed to renovating existing facilities, and prioritizing capital needs such as construction, renovations, and playground equipment and other amenities.

(f) The ~~North Carolina Partnership for Children, Inc.,~~Division shall establish uniform guidelines and a reporting format for local partnerships to document the qualifying expenses occurring at the contractor level. Local partnerships shall monitor qualifying expenses to ensure they have occurred and meet the requirements prescribed in this subsection."

**SECTION 10.5.(d)** G.S. 143B-168.13 reads as rewritten:

"**§ 143B-168.13. Implementation of program; duties of ~~Department~~ Division and Secretary.**

(a) The ~~Department~~ Division shall:

(1) Repealed by Session Laws 1998-212, s. 12.37B(a), effective October 30, 1998.
(1a) Develop and conduct a statewide needs and resource assessment every third year, beginning in the 1997-98 fiscal year. This needs assessment shall be conducted in cooperation ~~with the North Carolina Partnership and~~ with the local partnerships. This needs assessment shall include a statewide assessment of capital needs. The data and findings of this needs assessment shall form the basis for annual program plans developed by local partnerships and approved by the ~~North Carolina Partnership.~~Division.
(2) Recodified as (a)(1a) by Session Laws 1998-212, s. 12.37B(a).
(2a) Repealed by Session Laws 1998-212, s. 12.37B(l), effective October 30, 1998.
(3) Provide technical and administrative ~~assitance~~ assistance to local partnerships, particularly during the first year after they are selected under this Part to receive State funds. The ~~Department,~~Division, at any time, may authorize ~~the North Carolina Partnership or~~ a governmental or public entity to do the contracting for one or more local partnerships. After a local partnership's first year, the ~~Department~~ Division may allow the partnership to contract for itself.
(4) ~~Adopt, in cooperation with the North Carolina Partnership,~~Adopt any rules necessary to implement this Part, including rules to ensure that State leave policy is not applied to ~~the North Carolina Partnership and~~ the local partnerships. In order to allow local partnerships to focus on the development of long-range plans in their initial year of funding, the ~~Department~~ Division may adopt rules that limit the categories of direct services for young children and their families for which funds are made available during the initial year.

(5) Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 24.29(c).
(6) Annually update its funding ~~formula, in collaboration with the North Carolina Partnership for Children, Inc.,~~formula using the most recent data available. These amounts shall serve as the basis for determining "full funding" amounts for each local partnership.

(b) Repealed by Session Laws 1998-212, s. 12.37B(a), effective October 30, 1998."

**SECTION 10.5.(e)** G.S. 143B-168.14 reads as rewritten:

"**§ 143B-168.14. Local partnerships; conditions.**

(a) In order to receive State funds, the following conditions shall be met:
(1) Each local partnership shall develop a comprehensive, collaborative, long-range plan of services to children and families in the service-delivery area. No existing local, private, nonprofit 501(c)(3) organization, other than one established on or after July 1, 1993, and that meets the guidelines for local partnerships as established under this Part, shall be eligible to apply to serve as the local partnership for the purpose of this Part. The ~~Board of the North Carolina Partnership~~Division may authorize exceptions to this eligibility requirement.
(2) Each local partnership shall agree to adopt procedures for its operations that are comparable to those of Article 33C of Chapter 143 of the General Statutes, the Open Meetings Law, and Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Department. The procedures may provide for the confidentiality of personnel files comparable to Article 7 of Chapter 126 of the General Statutes.
(3) Each local partnership shall adopt procedures to ensure that all personnel who provide services to young children and their families under this Part know and understand their responsibility to report suspected child abuse, neglect, or dependency, as defined in G.S. 7B-101.
(4) Each local partnership shall participate in the uniform, standard fiscal accountability plan developed and adopted by the ~~North Carolina Partnership.~~Division.

(b) Each local partnership shall be subject to audit and review by the ~~North Carolina Partnership.~~Division. The ~~North Carolina Partnership~~Division shall contract for annual financial and compliance audits of local partnerships that are rated "needs improvement" in performance assessments authorized in G.S. 143B-168.12(a)(7). Local partnerships that are rated "superior" or "satisfactory" in performance assessments authorized in G.S. 143B-168.12(a)(7) shall undergo biennial financial and compliance audits as contracted for by the ~~North Carolina Partnership.~~Division. The ~~North Carolina Partnership~~Division shall provide the State Auditor with a copy of each audit conducted pursuant to this subsection."

**SECTION 10.5.(f)** G.S. 143B-168.15 reads as rewritten:

"**§ 143B-168.15. Use of State funds.**

(a) State funds allocated to local projects for services to children and families shall be used to meet assessed needs, expand coverage, and improve the quality of these services. The local plan shall address the assessed needs of all children to the extent feasible. It is the intent of the General Assembly that the needs of both young children below poverty who remain in the home, as well as the needs of young children below poverty who require services beyond those offered in child care settings, be addressed. Therefore, as local partnerships address the assessed needs of all children, they should devote an appropriate amount of their State allocations, considering these needs and other available resources, to meet the needs of children below poverty and their families.

(b) Depending on local, regional, or statewide needs, funds may be used to support activities and services that shall be made available and accessible to providers, children, and families on a voluntary basis. Of the funds allocated to local partnerships for direct services, seventy percent (70%) of the funds spent in each year shall be used in child care related activities and early childhood education programs that improve access to child care and early childhood education services, develop new child care and early childhood education services, and improve the quality of child care and early childhood education services in all settings.

(c) Long-term plans for local projects that do not receive their full allocation in the first year, other than those selected in 1993, should consider how to meet the assessed needs of low-income children and families within their neighborhoods or communities. These plans also

should reflect a process to meet these needs as additional allocations and other resources are received.

(d) State funds designated for start-up and related activities may be used for capital expenses or to support activities and services for children, families, and providers. State funds designated to support direct services for children, families, and providers shall not be used for major capital expenses unless the ~~North Carolina Partnership~~Division approves this use of State funds based upon a finding that a local partnership has demonstrated that (i) this use is a clear priority need for the local plan, (ii) it is necessary to enable the local partnership to provide services and activities to underserved children and families, and (iii) the local partnership will not otherwise be able to meet this priority need by using State or federal funds available to that local partnership. The funds approved for capital projects in any two consecutive fiscal years may not exceed ten percent (10%) of the total funds for direct services allocated to a local partnership in those two consecutive fiscal years.

(e) State funds allocated to local partnerships shall not supplant current expenditures by counties on behalf of young children and their families, and maintenance of current efforts on behalf of these children and families shall be sustained. State funds shall not be applied without the Secretary's approval where State or federal funding sources, such as Head Start, are available or could be made available to that county.

(f) Repealed by Session Laws 2001-424, s. 21.75(g), effective July 1, 2001.

(g) Not less than thirty percent (30%) of the funds spent in each year of each local partnership's direct services allocation shall be used to expand child care subsidies. To the extent practicable, these funds shall be used to enhance the affordability, availability, and quality of child care services as described in this section. The ~~North Carolina Partnership~~Division may increase this percentage requirement up to a maximum of fifty percent (50%) when, based upon a significant local waiting list for subsidized child care, the ~~North Carolina Partnership~~Division determines a higher percentage is justified.

(h) State funds allocated to local partnerships that are unexpended at the end of a fiscal year shall remain available to the ~~North Carolina Partnership for Children, Inc.,~~Division to reallocate to local partnerships."

**SECTION 10.5.(g)** Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than four percent (4%) of the total statewide allocation to all local partnerships. For purposes of this subsection, administrative costs shall include costs associated with partnership oversight, business and financial management, general accounting, human resources, budgeting, purchasing, contracting, and information systems management.

**SECTION 10.5.(h)** The Division of Child Development shall impose an annual salary cap limiting the amount of salary that an individual employee of a local partnership may be paid from State funds in accordance with the following schedule:

(1) For amounts received that are over ten million dollars ($10,000,000) annually in total State funds, the annual salary cap limitation is one hundred thousand dollars ($100,000).

(2) For amounts received that are over or equal to five million dollars ($5,000,000) but less than ten million dollars ($10,000,000) annually in total State funds, the annual salary cap limitation is ninety thousand dollars ($90,000).

(3) For amounts received that are over or equal to three million dollars ($3,000,000) but less than five million dollars ($5,000,000) annually in total State funds, the annual salary cap limitation is eighty thousand dollars ($80,000).

(4) For amounts received that are over or equal to one million dollars ($1,000,000) but less than three million dollars ($3,000,000) annually in total State funds, the annual salary cap limitation is seventy thousand dollars ($70,000).

(5) For amounts received that are less than one million dollars ($1,000,000) annually in total State funds, the annual salary cap limitation is sixty thousand dollars ($60,000).

Nothing in this subsection shall be construed to prohibit a local partnership from using non-State funds to supplement the salary of an individual employee employed by the local partnership.

**SECTION 10.5.(i)** Local partnerships shall use competitive bidding practices in contracting for goods and services on contract amounts as follows:

(1) For amounts of five thousand dollars ($5,000) or less, the procedures specified by a written policy to be developed by the Division of Child Development.

(2) For amounts greater than five thousand dollars ($5,000), but less than fifteen thousand dollars ($15,000), three written quotes.

(3) For amounts of fifteen thousand dollars ($15,000) or more, but less than forty thousand dollars ($40,000), a request for proposal process.

(4) For amounts of forty thousand dollars ($40,000) or more, a request for proposal process and advertising in a major newspaper.

**SECTION 10.5.(j)** All local partnerships shall, in the aggregate, be required to match one hundred percent (100%) of the total amount budgeted for the program in each fiscal year of the biennium. Of the funds the local partnerships are required to match, contributions of cash shall equal at least ten percent (10%) and in-kind donated resources shall equal no more than three percent (3%), for a total match requirement of thirteen percent (13%) for each fiscal year. Only in-kind contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for the purpose of the match requirement of this subsection. Volunteer services that qualify as professional services shall be valued at the fair market value of those services. All other volunteer service hours shall be valued at the statewide average wage rate as calculated from data compiled by the Employment Security Commission in the Employment and Wages in North Carolina Annual Report for the most recent period for which data are available. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with local partnerships also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

(1) Be verifiable from the contractor's records.

(2) If in-kind, other than volunteer services, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations.

(3) Not include expenses funded by State funds.

(4) Be supplemental to and not supplant preexisting resources for related program activities.

(5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives.

(6) Be otherwise allowable under federal or State law.

(7) Be required and described in the contractual agreements approved by the local partnership.

(8) Be reported to the local partnership by the contractor in the same manner as reimbursable expenses.

Failure to obtain a thirteen percent (13%) match by June 30 of each fiscal year shall result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent fiscal year. The Division of Child Development shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly.

**SECTION 10.5.(k)** The Department of Health and Human Services shall continue to implement the performance-based evaluation system.

**SECTION 10.5.(l)** The Department of Health and Human Services, Division of Child Development, shall ensure that the allocation of funds for Early Childhood Education and Development Initiatives for State fiscal years 2011-2012 and 2012-2013 shall be administered and distributed in the following manner:

(1) Capital expenditures are prohibited for fiscal years 2011-2012 and 2012-2013. For the purposes of this section, "capital expenditures" means expenditures for capital improvements as defined in G.S. 143C-1-1(d)(5).

(2) Expenditures of State funds for advertising and promotional activities are prohibited for fiscal years 2011-2012 and 2012-2013.

**SECTION 10.5.(m)** A county may use the county's allocation of State and federal child care funds to subsidize child care according to the county's Early Childhood Education and Development Initiatives Plan. The use of federal funds shall be consistent with the appropriate federal regulations. Child care providers shall, at a minimum, comply with the applicable requirements for State licensure pursuant to Article 7 of Chapter 110 of the General Statutes.

**SECTION 10.5.(n)** For fiscal years 2011-2012 and 2012-2013, the local partnerships shall spend at least seventy-two million dollars ($72,000,000) for child care subsidies, of which twenty million dollars ($20,000,000) is expected to be used to reduce the number of children on the waiting list for child care subsidy.

**SECTION 10.5.(o)** For fiscal years 2011-2012 and 2012-2013, local partnerships shall not spend any State funds on lobbying, marketing campaigns, advertising, or any associated materials. Local partnerships may spend any private funds the local partnerships receive on those activities.

**SECTION 10.5.(p)** Local partnership-funded activities shall include assisting child care facilities with (i) improving quality, including helping one- and two-star-rated facilities increase their star ratings and (ii) implementing prekindergarten programs. State funding for local partnerships shall also be used for evidence-based or evidence-informed programs for children from birth to five years of age that do the following:

(1) Increase children's literacy.
(2) Increase the parents' ability to raise healthy, successful children.
(3) Improve children's health.
(4) Assist four- and five-star-rated facilities in improving and maintaining quality.

**SECTION 10.5.(q)** The Legislative Research Commission is authorized to study the cost, quality, consumer education, and outcomes of the local partnerships' activities funded to (i) increase early literacy, (ii) measurably improve families' abilities to raise healthy, productive, and successful children, and (iii) increase access to preventative health care for children from birth to five years of age. The Legislative Research Commission shall evaluate and report on the following:

(1) The types of activities, goals, and intended outcomes of evidence-based early literacy activities that promote phonemic awareness, letter recognition, segmenting words into sounds, and decoding print text.
(2) The types of family support and health activities supported with local partnership funds.
(3) The goal and intended outcome of the family support and health activities.
(4) The numbers served and results of the family support and health activities.
(5) Study the match requirements and what constitutes the match requirements.
(6) Any other matter the Commission deems relevant to its charge.

**SECTION 10.5.(r)** On or before October 1, 2012, the Legislative Research Commission shall make a report of its findings and recommendations, including any proposed legislation, to the 2012 Regular Session of the 2011 General Assembly, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

**ADMINISTRATIVE ALLOWANCE FOR COUNTY DEPARTMENTS OF SOCIAL SERVICES**

**SECTION 10.6.** The Division of Child Development of the Department of Health and Human Services shall fund the allowance that county departments of social services may use for administrative costs at four percent (4%) of the county's total child care subsidy funds allocated in the Child Care Development Fund Block Grant plan.

**CONSOLIDATE MORE AT FOUR PROGRAM INTO DIVISION OF CHILD DEVELOPMENT**

**SECTION 10.7.(a)** The Department of Public Instruction, Office of Early Learning, and the Department of Health and Human Services are directed to consolidate the More At Four program into the Division of Child Development. The Division of Child Development is renamed the Division of Child Development and Early Education (DCDEE). The DCDEE is directed to maintain the More At Four program's high programmatic standards.

The Department of Health and Human Services shall assume the functions of the regulation and monitoring system and payment and reimbursement system for the More At Four program.

All regulation and monitoring functions shall begin July 1, 2011. The More At Four program shall be designated as "prekindergarten" on the five-star rating scale. All references to "prekindergarten" in this section shall refer to the program previously titled the "More At Four" program. All references to "non-prekindergarten" shall refer to all four- and five-star rated facilities.

The Office of State Budget and Management shall transfer positions to the Department of Health and Human Services to assume the regulation, monitoring, and accounting functions within the Division of Child Development's Regulatory Services Section. This transfer shall have all the elements of a Type I transfer as defined in G.S. 143A-6. All funds transferred pursuant to this section shall be used for the funding of prekindergarten slots for four-year-olds and for the management of the program. The Department of Health and Human Services shall incorporate eight consultant positions into the regulation and accounting sections of DCDEE, eliminate the remaining positions, and use position elimination savings for the purpose of funding prekindergarten students. DCDEE may use funds from the transfer of the More At Four program for continuing the teacher mentoring program and contracting for the environmental rating scale assessments.

**SECTION 10.7.(b)** The Childcare Commission shall adopt rules for programmatic standards for regulation of prekindergarten classrooms. The Commission shall review and approve comprehensive, evidenced-based early childhood curricula with a reading component. These curricula shall be added to the currently approved "More At Four" curricula.

**SECTION 10.7.(c)** G.S. 143B-168.4(a) reads as rewritten:

"(a) The Child Care Commission of the Department of Health and Human Services shall consist of ~~15~~ 17 members. Seven of the members shall be appointed by the Governor and ~~eight~~ 10 by the General Assembly, ~~four~~ five upon the recommendation of the President Pro Tempore of the Senate, and ~~four~~ five upon the recommendation of the Speaker of the House of Representatives. Four of the members appointed by the Governor, two by the General Assembly on the recommendation of the President Pro Tempore of the Senate, and two by the General Assembly on the recommendation of the Speaker of the House of Representatives, shall be members of the public who are not employed in, or providing, child care and who have no financial interest in a child care facility. Two of the foregoing public members appointed by the Governor, one of the foregoing public members recommended by the President Pro Tempore of the Senate, and one of the foregoing public members recommended by the Speaker of the House of Representatives shall be parents of children receiving child care services. Of the remaining two public members appointed by the Governor, one shall be a pediatrician currently licensed to practice in North Carolina. Three of the members appointed by the Governor shall be child care providers, one of whom shall be affiliated with a for profit child care center, one of whom shall be affiliated with a for profit family child care home, and one of whom shall be affiliated with a nonprofit facility. Two of the members appointed by the General Assembly on the recommendation of the President Pro Tempore of the Senate, and two by the General Assembly on recommendation of the Speaker of the House of Representatives, shall be child care providers, one affiliated with a for profit child care facility, and one affiliated with a nonprofit child care facility. The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, and the General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint two early childhood education specialists. None may be employees of the State."

**SECTION 10.7.(d)** The additional curricula approved and taught in prekindergarten classrooms shall also be taught in four- and five-star rated facilities in the non-prekindergarten four-year-old classrooms. The Child Care Commission shall increase standards in the four- and five-star-rated facilities for the purpose of placing an emphasis on early reading. The Commission shall require the four- and five-star-rated facilities to teach from the Commission's approved curricula. The Division of Child Development may use funds from the Child Care Development Fund Block Grant to assist with the purchase of curricula or adjust rates of reimbursements to cover increased costs.

**SECTION 10.7.(e)** The Division of Child Development and Early Education shall adopt a policy to encourage all prekindergarten classrooms to blend private pay families with prekindergarten subsidized children in the same manner that regular subsidy children are

blended with private pay children. The Division may implement a waiver or transition period for the public classrooms.

**SECTION 10.7.(f)** The prekindergarten program may continue to serve at-risk children identified through the existing "child find" methods in which at-risk children are currently served within the Division of Child Development. The Division of Child Development shall serve at-risk children regardless of income. However, the total number of at-risk children served shall constitute no more than twenty percent (20%) of the four-year-olds served within the prekindergarten program. Any age-eligible child who is a child of either of the following shall be eligible for the program: (i) an active duty member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces, who was ordered to active duty by the proper authority within the last 18 months or is expected to be ordered within the next 18 months or (ii) a member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces, who was injured or killed while serving on active duty. Eligibility determinations for prekindergarten participants may continue through local education agencies and local North Carolina Partnership for Children, Inc., partnerships.

**SECTION 10.7.(g)** The Division of Child Development and Early Education (DCDEE) shall adopt policies that improve the quality of childcare for subsidized children. The DCDEE shall phase in a new policy in which child care subsidies will be paid, to the extent possible, for child care in the higher quality centers and homes only. The DCDEE shall define higher quality, and subsidy funds shall not be paid for one- or two-star-rated facilities. For those counties with an inadequate number of three-, four-, and five-star-rated facilities, the DCDEE shall establish a transition period that allows the facilities to continue to receive subsidy funds while the facilities work on the increased star ratings. The DCDEE may allow exemptions in counties where there is an inadequate number of three-, four-, and five-star-rated facilities for nonstar-rated programs, such as religious programs.

**SECTION 10.7.(h)** The Division of Child Development and Early Education shall implement a parent co-payment requirement for prekindergarten classrooms the same as what is required of parents subject to regular child care subsidy payments. All at-risk children and age-eligible children of military personnel as described in subsection (g) of this section are exempt from the co-payment requirements of this subsection.

Fees for families who are required to share in the cost of care shall be established based on a percent of gross family income and adjusted for family size. Fees shall be determined as follows:

| FAMILY SIZE | PERCENT OF GROSS FAMILY INCOME |
|---|---|
| 1-3 | 10% |
| 4-5 | 9% |
| 6 or more | 8%. |

**SECTION 10.7.(i)** All prekindergarten classrooms regulated pursuant to this section shall be required to participate in the Subsidized Early Education for Kids (SEEK) accounting system to streamline the payment function for these classrooms with a goal of eliminating duplicative systems and streamlining the accounting and payment processes among the subsidy reimbursement systems. Prekindergarten funds transferred may be used to add these programs to SEEK.

**SECTION 10.7.(j)** Based on market analysis and within funds available, the Division of Child Development and Early Education shall establish reimbursement rates based on newly increased requirements of four- and five-star-rated facilities and the higher teacher standards within the prekindergarten class rooms, specifically More At Four teacher standards, when establishing the rates of reimbursements. Additionally, the prekindergarten curriculum day shall cover six and one-half to 10 hours daily and no less than 10 months per year. The public classrooms will have a one-year transition period to become licensed through the Division of Child Development and may continue to operate prekindergarten, formerly "More At Four," classrooms during the 2011-2012 fiscal year.

**MENTAL HEALTH CHANGES**

**SECTION 10.8.(a)** For the purpose of mitigating cash flow problems that many nonsingle-stream local management entities (LMEs) experience at the beginning of each fiscal year, the Department of Health and Human Services, Division of Mental Health,

Developmental Disabilities, and Substance Abuse Services, shall adjust the timing and method by which allocations of service dollars are distributed to each nonsingle-stream LME. To this end, the allocations shall be adjusted such that at the beginning of the fiscal year the Department shall distribute not less than one-twelfth of the LME's continuation allocation and subtract the amount of the adjusted distribution from the LME's total reimbursements for the fiscal year.

**SECTION 10.8.(b)** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the sum of twenty-nine million one hundred twenty-one thousand six hundred forty-four dollars ($29,121,644) for the 2011-2012 fiscal year and the sum of twenty-nine million one hundred twenty-one thousand six hundred forty-four dollars ($29,121,644) for the 2012-2013 fiscal year shall be allocated for the purchase of local inpatient psychiatric beds or bed days. In addition, at the discretion of the Secretary of Health and Human Services, existing funds allocated to LMEs for community-based mental health, developmental disabilities, and substance abuse services may be used to purchase additional local inpatient psychiatric beds or bed days. These beds or bed days shall be distributed across the State in LME catchment areas and according to need as determined by the Department. The Department shall enter into contracts with the LMEs and community hospitals for the management of these beds or bed days. The Department shall work to ensure that these contracts are awarded equitably around all regions of the State. Local inpatient psychiatric beds or bed days shall be managed and controlled by the LME, including the determination of which local or State hospital the individual should be admitted to pursuant to an involuntary commitment order. Funds shall not be allocated to LMEs but shall be held in a statewide reserve at the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to pay for services authorized by the LMEs and billed by the hospitals through the LMEs. LMEs shall remit claims for payment to the Division within 15 working days of receipt of a clean claim from the hospital and shall pay the hospital within 30 working days of receipt of payment from the Division. If the Department determines (i) that an LME is not effectively managing the beds or bed days for which it has responsibility, as evidenced by beds or bed days in the local hospital not being utilized while demand for services at the State psychiatric hospitals has not reduced, or (ii) the LME has failed to comply with the prompt payment provisions of this subsection, the Department may contract with another LME to manage the beds or bed days, or, notwithstanding any other provision of law to the contrary, may pay the hospital directly. The Department shall develop reporting requirements for LMEs regarding the utilization of the beds or bed days. Funds appropriated in this section for the purchase of local inpatient psychiatric beds or bed days shall be used to purchase additional beds or bed days not currently funded by or through LMEs and shall not be used to supplant other funds available or otherwise appropriated for the purchase of psychiatric inpatient services under contract with community hospitals, including beds or bed days being purchased through Hospital Utilization Pilot funds appropriated in S.L. 2007-323. Not later than March 1, 2012, the Department shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Fiscal Research Division on a uniform system for beds or bed days purchased (i) with local funds, (ii) from existing State appropriations, (iii) under the Hospital Utilization Pilot, and (iv) purchased using funds appropriated under this subsection.

**SECTION 10.8.(c)** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for mobile crisis teams, the sum of five million seven hundred thousand dollars ($5,700,000) shall be distributed to LMEs to support 30 mobile crisis teams. The new mobile crisis units shall be distributed over the State according to need as determined by the Department.

**SECTION 10.8.(d)** The Department of Health and Human Services may create a midyear process by which it can reallocate State service dollars away from LMEs that do not appear to be on track to spend the LMEs' full appropriation and toward LMEs that appear able to spend the additional funds.

**MH/DD/SAS HEALTH CARE INFORMATION SYSTEM PROJECT**

**SECTION 10.9.** Of the funds appropriated to the Department of Health and Human Services for the 2011-2013 fiscal biennium, the Department may use a portion of these funds to continue to develop and implement a health care information system for State institutions operated by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. G.S. 143C-6-5 does not apply to this section.

**LME FUNDS FOR SUBSTANCE ABUSE SERVICES**

**SECTION 10.10.(a)** Consistent with G.S. 122C-2, the General Assembly strongly encourages Local Management Entities (LMEs) to use a portion of the funds appropriated for substance abuse treatment services to support prevention and education activities.

**SECTION 10.10.(b)** An LME may use up to one percent (1%) of funds allocated to it for substance abuse treatment services to provide nominal incentives for consumers who achieve specified treatment benchmarks, in accordance with the federal substance abuse and mental health services administration best practice model entitled Contingency Management.

**SECTION 10.10.(c)** In providing treatment and services for adult offenders and increasing the number of Treatment Accountability for Safer Communities (TASC) case managers, local management entities shall consult with TASC to improve offender access to substance abuse treatment and match evidence-based interventions to individual needs at each stage of substance abuse treatment. Special emphasis should be placed on intermediate punishment offenders, community punishment offenders at risk for revocation, and Department of Correction releasees who have completed substance abuse treatment while in custody.

In addition to the funds appropriated in this act to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, to provide substance abuse services for adult offenders and to increase the number of TASC case managers, the Department shall allocate up to three hundred thousand dollars ($300,000) to TASC. These funds shall be allocated to TASC before funds are allocated to LMEs for mental health services, substance abuse services, and crisis services.

**SECTION 10.10.(d)** In providing drug treatment court services, LMEs shall consult with the local drug treatment court team and shall select a treatment provider that meets all provider qualification requirements and the drug treatment court's needs. A single treatment provider may be chosen for non-Medicaid-eligible participants only. A single provider may be chosen who can work with all of the non-Medicaid-eligible drug treatment court participants in a single group. During the 52-week drug treatment court program, participants shall receive an array of treatment and aftercare services that meets the participant's level of need, including step-down services that support continued recovery.

**MH/DD/SAS COMMUNITY SERVICE FUNDS**

**SECTION 10.11.(a)** The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (as used in this section "the Division") is directed to reduce the Community Service Fund by thirty million dollars ($30,000,000).

**SECTION 10.11.(b)** The Division is directed, through consultation with LME representatives and stakeholders, to develop a set of standardized covered benefits for recipients of LME Service Funds that shall become the only services paid for by community service funds through LMEs. These services shall be best practices for developmental disabilities, mental illness, and substance abuse.

**SECTION 10.11.(c)** Effective January 1, 2012, the Division shall implement a co-payment for all mental health, developmental disabilities, and substance abuse services based upon the Medicaid co-payment rates.

**SECTION 10.11.(d)** The Division is directed to reduce the Community Service Fund by twenty-five million dollars ($25,000,000) for the 2011-2012 fiscal year based on available fund balance reported by the LMEs' 2010 fiscal audit. The Division is directed to allocate the reduction among LMEs based on unreserved, undesignated fund balance totals, as of June 30, 2010. The LMEs are required to backfill the reduction in this subsection with fund balance availability and not further reduce services. LMEs are directed to spend their unreserved, undesignated fund balance on services, commensurate with the reduction directed by the Division pursuant to this subsection.

**SECTION 10.11.(e)** Quarterly reports shall be submitted to the Division by LMEs to ensure expenditures from fund balance occur at the level required by this law. Additionally, the Division shall review the designation of reserved or designated fund balance accounts to

determine whether accounts may be moved to unreserved, undesignated, in essence increasing the unreserved, undesignated fund balance available for purchase of services. If categories of funds are moved into the unreserved/undesignated categories, the affected LMEs are encouraged to spend these funds to minimize their share of the thirty million dollars ($30,000,000) in reductions to services as required in subsection (a) of this section.

**SECTION 10.11.(f)** The Department of Health and Human Services shall report to the House and Senate Appropriations Subcommittees by December 12, 2011, on the status of implementing this section.

**CONSOLIDATION OF FORENSIC HEALTH CARE AT DOROTHEA DIX COMPLEX**

**SECTION 10.12.** The Department of Health and Human Services, Division of State Operated Facilities, shall issue a Request for Proposal for the consolidation of forensic hospital care. The operation shall initially be located at the Dorothea Dix complex. The Secretary of Health and Human Services is authorized to proceed with contracting with a private entity if the Secretary can justify savings through the contract. The Secretary shall compare the Department's total cost to provide forensic care to proposals received and determine whether it is cost-effective to contract for this service. The Secretary may only proceed if the Secretary determines the Department will save money and ensure appropriate safety and quality of care for patients.

The Secretary shall report to the Joint Appropriations Subcommittee for Health and Human Services by October 30, 2011, with cost detail and savings identified from the proposals.

**TRANSITION OF UTILIZATION MANAGEMENT OF COMMUNITY-BASED SERVICES TO LOCAL MANAGEMENT ENTITIES**

**SECTION 10.13.** The Department of Health and Human Services shall collaborate with LMEs to enhance their administrative capabilities to assume utilization management responsibilities for the provision of community-based mental health, developmental disabilities, and substance abuse services. The Department may, with approval of the Office of State Budget and Management, use funds available to implement this section.

**THIRD-PARTY BILLING FOR STATE FACILITIES**

**SECTION 10.14.** G.S. 122C-55 reads as rewritten:

"**§ 122C-55. Exceptions; care and treatment.**

...

(g) Whenever there is reason to believe that the client is eligible for financial benefits through a governmental agency, a facility may disclose confidential information to State, local, or federal government agencies. Except as provided in ~~G.S. 122C-55(a3),~~ G.S. 122C-55(a3) and G.S. 122C-55(g1), disclosure is limited to that confidential information necessary to establish financial benefits for a client. ~~After~~ Except as provided in G.S. 122C-55(g1), after establishment of these benefits, the consent of the client or his legally responsible person is required for further release of confidential information under this subsection.

(g1) A facility may disclose confidential information for the purpose of collecting payment due the facility for the cost of care, treatment, or habilitation.

...."

**COLLABORATION AMONG DEPARTMENTS OF ADMINISTRATION, HEALTH AND HUMAN SERVICES, JUVENILE JUSTICE AND DELINQUENCY PREVENTION, AND PUBLIC INSTRUCTION ON SCHOOL-BASED CHILD AND FAMILY TEAM INITIATIVE**

**SECTION 10.15.(a)** School-Based Child and Family Team Initiative Established.

(1) Purpose and duties. – There is established the School-Based Child and Family Team Initiative. The purpose of the Initiative is to identify and coordinate appropriate community services and supports for children at risk of school failure or out-of-home placement in order to address the physical, social, legal, emotional, and developmental factors that affect academic performance. The Department of Health and Human Services, the Department of Public Instruction, the State Board of Education, the

Department of Juvenile Justice and Delinquency Prevention, the Administrative Office of the Courts, and other State agencies that provide services for children shall share responsibility and accountability to improve outcomes for these children and their families. The Initiative shall be based on the following principles:

a. The development of a strong infrastructure of interagency collaboration.
b. One child, one team, one plan.
c. Individualized, strengths-based care.
d. Accountability.
e. Cultural competence.
f. Children at risk of school failure or out-of-home placement may enter the system through any participating agency.
g. Services shall be specified, delivered, and monitored through a unified Child and Family Plan that is outcome-oriented and evaluation-based.
h. Services shall be the most efficient in terms of cost and effectiveness and shall be delivered in the most natural settings possible.
i. Out-of-home placements for children shall be a last resort and shall include concrete plans to bring the children back to a stable permanent home, their schools, and their community.
j. Families and consumers shall be involved in decision making throughout service planning, delivery, and monitoring.

(2) Program goals and services. – In order to ensure that children receiving services are appropriately served, the affected State and local agencies shall do the following:

a. Increase capacity in the school setting to address the academic, health, mental health, social, and legal needs of children.
b. Ensure that children receiving services are screened initially to identify needs and assessed periodically to determine progress and sustained improvement in educational, health, safety, behavioral, and social outcomes.
c. Develop uniform screening mechanisms and a set of outcomes that are shared across affected agencies to measure children's progress in home, school, and community settings.
d. Promote practices that are known to be effective based upon research or national best practice standards.
e. Review services provided across affected State agencies to ensure that children's needs are met.
f. Eliminate cost-shifting and facilitate cost-sharing among governmental agencies with respect to service development, service delivery, and monitoring for participating children and their families.
g. Participate in a local memorandum of agreement signed annually by the participating superintendent of the local LEA, directors of the county departments of social services and health, director of the local management entity, the chief district court judge, and the chief district court counselor.

(3) Local level responsibilities. – In coordination with the North Carolina Child and Family Leadership Council (Council), established in subsection (b) of this section, the local board of education shall establish the School-Based Child and Family Team Initiative at designated schools and shall appoint the Child and Family Team Leaders, who shall be a school nurse and a school social worker. Each local management entity that has any selected schools in its catchment area shall appoint a Care Coordinator, and any department of social services that has a selected school in its catchment area shall appoint a Child and Family Teams Facilitator. The Care Coordinators and Child and Family Team Facilitators shall have as their sole responsibility working with the selected schools in their catchment areas and shall provide training to school-based personnel, as required. The Child and Family Team Leaders

shall identify and screen children who are potentially at risk of academic failure or out-of-home placement due to physical, social, legal, emotional, or developmental factors. Based on the screening results, responsibility for developing, convening, and implementing the Child and Family Team Initiative is as follows:

a. School personnel shall take the lead role for those children and their families whose primary unmet needs are related to academic achievement.

b. The local management entity shall take the lead role for those children and their families whose primary unmet needs are related to mental health, substance abuse, or developmental disabilities and who meet the criteria for the target population established by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

c. The local department of public health shall take the lead role for those children and their families whose primary unmet needs are health-related.

d. Local departments of social services shall take the lead for those children and their families whose primary unmet needs are related to child welfare, abuse, or neglect.

e. The chief district court counselor shall take the lead for those children and their families whose primary unmet needs are related to juvenile justice issues. A representative from each named or otherwise identified publicly supported children's agency shall participate as a member of the Team as needed. Team members shall coordinate, monitor, and assure the successful implementation of a unified Child and Family Plan.

(4) Reporting requirements. – School-Based Child and Family Team Leaders shall provide data to the Council for inclusion in their report to the North Carolina General Assembly. The report shall include the following:

a. The number of and other demographic information on children screened and assigned to a team and a description of the services needed by and provided to these children.

b. The number of and information about children assigned to a team who are placed in programs or facilities outside the child's home or outside the child's county and the average length of stay in residential treatment.

c. The amount and source of funds expended to implement the Initiative.

d. Information on how families and consumers are involved in decision making throughout service planning, delivery, and monitoring.

e. Other information as required by the Council to evaluate success in local programs and ensure appropriate outcomes.

f. Recommendations on needed improvements.

(5) Local advisory committee. – In each county with a participating school, the superintendent of the local LEA shall either identify an existing cross-agency collaborative or council or shall form a new group to serve as a local advisory committee to work with the Initiative. Newly formed committees shall be chaired by the superintendent and one other member of the committee to be elected by the committee. The local advisory committee shall include the directors of the county departments of social services and health; the directors of the local management entity; the chief district court judge; the chief district court counselor; the director of a school-based or school-linked health center, if a center is located within the catchment area of the School-Based Child and Family Team Initiative; and representatives of other agencies providing services to children, as designated by the Committee. The members of the Committee shall meet as needed to monitor and support the successful implementation of the School-Based Child and Family Team Initiative. The Local Child and Family Team Advisory

Committee may designate existing cross-agency collaboratives or councils as working groups or to provide assistance in accomplishing established goals.

**SECTION 10.15.(b)** North Carolina Child and Family Leadership Council. –

(1) Leadership Council established; location. – There is established the North Carolina Child and Family Leadership Council (Council). The Council shall be located within the Department of Administration for organizational and budgetary purposes.

(2) Purpose. – The purpose of the Council is to review and advise the Governor in the development of the School-Based Child and Family Team Initiative and to ensure the active participation and collaboration in the Initiative by all State agencies and their local counterparts providing services to children in participating counties in order to increase the academic success of and reduce out-of-home and out-of-county placements of children at risk of academic failure.

(3) Membership. – The Superintendent of Public Instruction and the Secretary of Health and Human Services shall serve as cochairs of the Council. Council membership shall include the Secretary of the Department of Juvenile Justice and Delinquency Prevention, the Chair of the State Board of Education, the Director of the Administrative Office of the Courts, and other members as appointed by the Governor.

(4) The Council shall do the following:

a. Sign an annual memorandum of agreement (MOA) among the named State agencies to define the purposes of the program and to ensure that program goals are accomplished.

b. Resolve State policy issues, as identified at the local level, which interfere with effective implementation of the School-Based Child and Family Team Initiative.

c. Direct the integration of resources, as needed, to meet goals and ensure that the Initiative promotes the most effective and efficient use of resources and eliminates duplication of effort.

d. Establish criteria for defining success in local programs and ensure appropriate outcomes.

e. Develop an evaluation process, based on expected outcomes, to ensure the goals and objectives of this Initiative are achieved.

f. Review progress made on integrating policies and resources across State agencies, reaching expected outcomes, and accomplishing other goals.

g. Report semiannually, on January 1 and July 1, on progress made and goals achieved to the Office of the Governor, the Joint Appropriations Committees and Subcommittees on Education, Justice and Public Safety, and Health and Human Services, and the Fiscal Research Division of the Legislative Services Office. The Council may designate existing cross-agency collaboratives or councils as working groups or to provide assistance in accomplishing established goals.

**SECTION 10.15.(c)** Department of Health and Human Services. – The Secretary of the Department of Health and Human Services shall ensure that all agencies within the Department collaborate in the development and implementation of the School-Based Child and Family Team Initiative and provide all required support to ensure that the Initiative is successful.

**SECTION 10.15.(d)** Department of Juvenile Justice and Delinquency Prevention. – The Secretary of the Department of Juvenile Justice and Delinquency Prevention shall ensure that all agencies within the Department collaborate in the development and implementation of the School-Based Child and Family Team Initiative and provide all required support to ensure that the Initiative is successful.

**SECTION 10.15.(e)** Administrative Office of the Courts. – The Director of the Administrative Office of the Courts shall ensure that the Office collaborates in the development

and implementation of the School-Based Child and Family Team Initiative and shall provide all required support to ensure that the Initiative is successful.

**SECTION 10.15.(f)** Department of Public Instruction. – The Superintendent of Public Instruction shall ensure that the Department collaborates in the development and implementation of the School-Based Child and Family Team Initiative and shall provide all required support to ensure that the Initiative is successful.

**DHHS POSITION ELIMINATIONS**

**SECTION 10.16.** The Secretary of the Department of Health and Human Services is directed to eliminate 250 full-time equivalent positions that have been continuously vacant since July 1, 2010, in order to accomplish a total savings of seven million seven hundred seventy-one thousand nine hundred ninety-seven dollars ($7,771,997) in State funds. To the extent possible, the Secretary shall not eliminate positions assigned to the Division of State Operated Healthcare Facilities or the Division of Medical Assistance. In the event that eliminating 250 full-time equivalent positions that have been continuously vacant since July 1, 2010, does not achieve the savings specified in this section, the Secretary may eliminate other positions within the Department or achieve the designated savings through other administrative and operational reductions or efficiencies. By September 30, 2011, the Secretary shall submit a report to the House Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the positions eliminated and any other reductions or efficiencies implemented in order to achieve the savings required by this section. The report shall include the total number of positions eliminated, savings generated by each eliminated position, the impact on any federal funds previously received for the eliminated positions, and any other reductions or efficiencies implemented to achieve the savings required by this section.

**REDUCE FUNDING FOR NONPROFIT ORGANIZATIONS**

**SECTION 10.18.** For fiscal years 2011-2012 and 2012-2013, the Department of Health and Human Services shall reduce the amount of funds allocated to nonprofit organizations by ten million dollars ($10,000,000) on a recurring basis. In achieving the reductions required by this section, the Department shall not reduce funds allocated to the North Carolina High School Athletic Association by more than ten percent (10%).

**PROHIBIT USE OF ALL FUNDS FOR PLANNED PARENTHOOD ORGANIZATIONS**

**SECTION 10.19.** For fiscal years 2011-2012 and 2012-2013, the Department of Health and Human Services may not provide State funds or other funds administered by the Department for contracts or grants to Planned Parenthood, Inc., and affiliated organizations.

**LIABILITY INSURANCE**

**SECTION 10.20.(a)** The Secretary of the Department of Health and Human Services, the Secretary of the Department of Environment and Natural Resources, and the Secretary of the Department of Correction may provide medical liability coverage not to exceed one million dollars ($1,000,000) per incident on behalf of employees of the Departments licensed to practice medicine or dentistry, on behalf of all licensed physicians who are faculty members of The University of North Carolina who work on contract for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for incidents that occur in Division programs, and on behalf of physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services. This coverage may include commercial insurance or self-insurance and shall cover these individuals for their acts or omissions only while they are engaged in providing medical and dental services pursuant to their State employment or training.

**SECTION 10.20.(b)** The coverage provided under this section shall not cover any individual for any act or omission that the individual knows or reasonably should know constitutes a violation of the applicable criminal laws of any state or the United States or that arises out of any sexual, fraudulent, criminal, or malicious act or out of any act amounting to willful or wanton negligence.

**SECTION 10.20.(c)** The coverage provided pursuant to this section shall not require any additional appropriations and shall not apply to any individual providing contractual service to the Department of Health and Human Services, the Department of Environment and Natural Resources, or the Department of Correction, with the exception that coverage may include physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services and licensed physicians who are faculty members of The University of North Carolina who work for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

**CHANGES TO COMMUNITY-FOCUSED ELIMINATING HEALTH DISPARITIES INITIATIVE**

**SECTION 10.21.(a)** Funds appropriated in this act from the General Fund to the Department of Health and Human Services (Department) for the Community-Focused Eliminating Health Disparities Initiative (CFEHDI) shall be used to provide a maximum of 12 grants-in-aid to close the gap in the health status of African-Americans, Hispanics/Latinos, and American Indians as compared to the health status of white persons. These grants-in-aid shall focus on the use of measures to eliminate or reduce health disparities among minority populations in this State with respect to heart disease, stroke, diabetes, obesity, asthma, HIV/AIDS, and cancer. The Office of Minority Health shall coordinate and implement the grants-in-aid program authorized by this section.

**SECTION 10.21.(b)** In implementing the grants-in-aid program authorized by subsection (a) of this section, the Department shall ensure all of the following:

(1) The amount of any grant-in-aid is limited to three hundred thousand dollars ($300,000).

(2) Only community-based organizations, faith-based organizations, local health departments, hospitals, and CCNC networks located in urban and rural areas of the western, eastern, and Piedmont areas of this State are eligible to apply for these grants-in-aid. No more than four grants-in-aid shall be awarded to applicants located in any one of the three areas specified in this subdivision.

(3) Each eligible applicant shall be required to demonstrate substantial participation and involvement with all other categories of eligible applicants, in order to ensure an evidence-based medical home model that will affect change in health and geographic disparities.

(4) Eligible applicants shall select one or more of the following chronic illnesses or conditions specific to the applicant's geographic area as the basis for applying for a grant-in-aid under this section to affect change in the health status of African-Americans, Hispanics/Latinos, or American Indians:
   a. Heart Disease
   b. Stroke
   c. Diabetes
   d. Obesity
   e. Asthma
   f. HIV/AIDS
   g. Cancer

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

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

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

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

**SECTION 10.21.(c)** The grants-in-aid awarded under this section shall be awarded in honor of the memory of the following recently deceased members of the General Assembly:

Bernard Allen, John Hall, Robert Holloman, Howard Hunter, Jeanne Lucas, Vernon Malone, William Martin, and Pete Cunningham. These funds shall be used for concerted efforts to address large gaps in health status among North Carolinians who are African-American, as well as disparities among other minority populations in North Carolina.

**SECTION 10.21.(d)** By October 1, 2012, and annually thereafter, the Department shall submit a report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on funds appropriated to the CFEHDI. The report shall include specific activities undertaken pursuant to subsection (a) of this section to address large gaps in health status among North Carolinians who are African-American and other minority populations in this State, and shall also address all of the following:

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

**FUNDS FOR SCHOOL NURSES**

**SECTION 10.22.(a)** All funds appropriated in this act for the School Nurse Funding Initiative shall be used to supplement and not supplant other State, local, or federal funds appropriated or allocated for this purpose. Communities shall maintain their current level of effort and funding for school nurses. These funds shall not be used to fund nurses for State agencies. These funds shall be distributed to local health departments according to a formula that includes all of the following:

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

**SECTION 10.22.(b)** The Division of Public Health shall ensure that school nurses funded with State funds (i) do not assist in any instructional or administrative duties associated with a school's curriculum and (ii) perform all of the following with respect to school health programs:

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

**REPLACEMENT OF RECEIPTS FOR CHILD DEVELOPMENT SERVICE AGENCIES**

**SECTION 10.23.** Receipts earned by the Child Development Service Agencies (CDSAs) from any public or private third-party payer shall be budgeted on a recurring basis to replace reductions in State appropriations to CDSAs.

**HEALTH INFORMATION TECHNOLOGY**

**SECTION 10.24.(a)** The Department of Health and Human Services, in cooperation with the State Chief Information Officer, shall coordinate health information technology (HIT) policies and programs within the State of North Carolina. The Department's goal in coordinating State HIT policy and programs shall be to avoid duplication of efforts and to ensure that each State agency, public entity, and private entity that undertakes health information technology activities does so within the area of its greatest expertise and technical capability and in a manner that supports coordinated State and national goals, which shall include at least all of the following:

(1) Ensuring that patient health information is secure and protected, in accordance with applicable law.

(2) Improving health care quality, reducing medical errors, reducing health disparities, and advancing the delivery of patient-centered medical care.

(3) Providing appropriate information to guide medical decisions at the time and place of care.

(4) Ensuring meaningful public input into HIT infrastructure development.

(5) Improving the coordination of information among hospitals, laboratories, physicians' offices, and other entities through an effective infrastructure for the secure and authorized exchange of health care information.

(6) Improving public health services and facilitating early identification and rapid response to public health threats and emergencies, including bioterrorist events and infectious disease outbreaks.

(7) Facilitating health and clinical research.

(8) Promoting early detection, prevention, and management of chronic diseases.

**SECTION 10.24.(b)** The Department of Health and Human Services shall establish and direct a HIT management structure that is efficient and transparent and that is compatible with the Office of the National Health Coordinator for Information Technology (National Coordinator) governance mechanism. The HIT management structure shall be responsible for all of the following:

(1) Developing a State plan for implementing and ensuring compliance with national HIT standards and for the most efficient, effective, and widespread adoption of HIT.

(2) Ensuring that (i) specific populations are effectively integrated into the State plan, including aging populations, populations requiring mental health services, and populations utilizing the public health system; and (ii) unserved and underserved populations receive priority consideration for HIT support.

(3) Identifying all HIT stakeholders and soliciting feedback and participation from each stakeholder in the development of the State plan.

(4) Ensuring that existing HIT capabilities are considered and incorporated into the State plan.

(5) Identifying and eliminating conflicting HIT efforts where necessary.

(6) Identifying available resources for the implementation, operation, and maintenance of health information technology, including identifying resources and available opportunities for North Carolina institutions of higher education.

(7) Ensuring that potential State plan participants are aware of HIT policies and programs and the opportunity for improved health information technology.

(8) Monitoring HIT efforts and initiatives in other states and replicating successful efforts and initiatives in North Carolina.

(9) Monitoring the development of the National Coordinator's strategic plan and ensuring that all stakeholders are aware of and in compliance with its requirements.

(10) Monitoring the progress and recommendations of the HIT Policy and Standards Committee and ensuring that all stakeholders remain informed of the Committee's recommendations.

(11) Monitoring all studies and reports provided to the United States Congress and reporting to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the impact of report recommendations on State efforts to implement coordinated HIT.

**SECTION 10.24.(c)** Beginning October 1, 2011, the Department of Health and Human Services shall provide quarterly written reports on the status of HIT efforts to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The reports due each January 1 and July 1 shall consist of updates to substantial initiatives or challenges that have occurred since the most recent comprehensive report. The reports due each October 1 and April 1 shall be comprehensive and shall include all of the following:

(1) Current status of federal HIT initiatives.

(2) Current status of State HIT efforts and initiatives among both public and private entities.

(3) A breakdown of current public and private funding sources and dollar amounts for State HIT initiatives.

(4) Department efforts to coordinate HIT initiatives within the State and any obstacles or impediments to coordination.

(5) HIT research efforts being conducted within the State and sources of funding for research efforts.

(6) Opportunities for stakeholders to participate in HIT funding and other efforts and initiatives during the next quarter.

(7) Issues associated with the implementation of HIT in North Carolina and recommended solutions to these issues.

**FUNDS FOR STROKE PREVENTION**

**SECTION 10.25.(a)** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, the sum of four hundred thousand dollars ($400,000) in nonrecurring funds for the 2011-2012 fiscal year and the sum of four hundred thousand dollars ($400,000) in nonrecurring funds for the 2012-2013 fiscal year is allocated to the Heart Disease and Stroke Prevention Branch for continuation of community education campaigns and communication strategies, in partnership with the American Heart Association/American Stroke Association, on stroke signs and symptoms and the importance of immediate response.

**SECTION 10.25.(b)** Of the funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, the sum of fifty thousand dollars ($50,000) in nonrecurring funds for the 2011-2012 fiscal year and the sum of fifty thousand dollars ($50,000) in nonrecurring funds for the 2012-2013 fiscal year is allocated for continued operations of the Stroke Advisory Council.

**AIDS DRUG ASSISTANCE PROGRAM**

**SECTION 10.26.** The Department of Health and Human Services (DHHS) shall work with the Department of Correction (DOC) to use DOC funds to purchase pharmaceuticals for the treatment of DOC inmates with HIV/AIDS in a manner that allows these funds to be accounted for as State matching funds in DHHS' drawdown of federal Ryan White funds.

**MEN'S HEALTH**

**SECTION 10.26A.** The Department of Health and Human Services, Division of Public Health, shall delegate to the Chronic Disease Prevention and Control Office the responsibility for ensuring attention to the prevention of disease and improvement in the quality of life for men over their entire lifespan. The Department shall develop strategies for achieving these goals, which shall include (i) developing a strategic plan to improve health care services,

(ii) building public health awareness, (iii) developing initiatives within existing programs, and (iv) pursuing federal and State funding for the screening, early detection, and treatment of prostate cancer and other diseases affecting men's health.

**NC HEALTH CHOICE MEDICAL POLICY**

**SECTION 10.27.** Unless required for compliance with federal law, the Department shall not change medical policy affecting the amount, sufficiency, duration, and scope of NC Health Choice health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for departmental review. If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds one million dollars ($1,000,000) in total requirements for a given fiscal year, then the Department shall submit the proposed medical policy change with the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division. The Department shall not implement any proposed medical policy change exceeding one million dollars ($1,000,000) in total requirements for a given fiscal year unless the source of State funding is identified and approved by the Office of State Budget and Management. For medical policy changes exceeding one million dollars ($1,000,000) in total requirements for a given fiscal year that are required for compliance with federal law, the Department shall submit the proposed medical policy or policy interpretation change with a five-year fiscal analysis to the Office of State Budget and Management prior to implementing the change. The Department shall provide the Office of State Budget and Management and the Fiscal Research Division a quarterly report itemizing all medical policy changes with total requirements of less than one million dollars ($1,000,000).

**COMMUNITY CARE OF NORTH CAROLINA**

**SECTION 10.28.(a)** The Department of Health and Human Services (Department) shall submit a report annually from a qualified entity with proven experience in conducting actuarial and health care studies on the Medicaid cost-savings achieved by the CCNC networks, which shall include children, adults, and the aged, blind, and disabled, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

**SECTION 10.28.(b)** The Department and the Division of Medical Assistance (DMA) shall enter into a three-party contract between North Carolina Community Care Networks, Inc., (NCCCN, Inc.) and each of the 14 participating local CCNC networks and shall require NCCCN, Inc., to provide standardized clinical and budgetary coordination, oversight, and reporting for a statewide Enhanced Primary Care Case Management System for Medicaid enrollees. The contracts shall require NCCCN, Inc., to build upon and expand the existing successful CCNC primary care case management model to include comprehensive statewide quantitative performance goals and deliverables which shall include all of the following areas: (i) service utilization management, (ii) budget analytics, (iii) budget forecasting methodologies, (iv) quality of care analytics, (v) participant access measures, and (vi) predictable cost containment methodologies.

**SECTION 10.28.(c)** NCCCN, Inc., shall report quarterly to the Department and to the Office of State Budget and Management (OSBM) on the development of the statewide Enhanced Primary Care Case Management System and its defined goals and deliverables as agreed upon in the contract. NCCCN, Inc., shall submit biannual reports to the Secretary of Health and Human Services, OSBM, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the progress and results of implementing the quantitative, analytical, utilization, quality, cost containment, and access goals and deliverables set out in the contract. NCCCN, Inc., shall conduct its own analysis of the CCNC system to identify any variations from the development plan for the Enhanced Primary Care Case Management System and its defined goals and deliverables set out in the contract between DMA and NCCCN, Inc. Upon identifying any variations, NCCCN, Inc., shall develop and implement a plan to address the variations. NCCCN, Inc., shall report the plan to DMA within 30 days after taking any action to implement the plan.

**SECTION 10.28.(d)** By January 1, 2012, the Department and OSBM shall assess the performance of NCCCN, Inc., and CCNC regarding the goals and deliverables established

in the contract. Based on this assessment, the Department and DMA shall expand, cancel, or alter the contract with NCCCN, Inc., and CCNC effective April 1, 2012. Expansion or alteration of the contract may reflect refinements based on clearly identified goals and deliverables in the areas of quality of care, participant access, cost containment, and service delivery.

**SECTION 10.28.(e)** By July 1, 2012, the Department, DMA, and NCCCN, Inc., shall finalize a comprehensive plan that establishes management methodologies which include all of the following: (i) quality of care measures, (ii) utilization measures, (iii) recipient access measures, (iv) performance incentive models in which past experience indicates a benefit from financial incentives, (v) accountable budget models, (vi) shared savings budget models, and (vii) budget forecasting analytics as agreed upon by the Department, DMA, and NCCCN, Inc. In the development of these methodologies, the Department, DMA, and NCCCN, Inc., shall consider options for shared risk. The Department and DMA shall provide assistance to NCCCN, Inc., in meeting the objectives of this section.

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

**SECTION 10.29.(a)** By August 1, 2011, the Secretary of the Department of Health and Human Services shall provide detailed cost information on the replacement Medicaid Management Information System (MMIS) to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management. This information shall include the following:

(1) The original total cost of MMIS, by year, to include five years of operations and maintenance.

(2) The current total cost of MMIS, to include five years of operations and maintenance.

(3) Detailed information on costs associated with each MMIS project, to include the original cost, the current cost, and the reasons for any changes.

(4) A list of change requests and amendments to the original contract, and the costs associated with each.

(5) Costs for continuing the legacy MMIS beyond the original completion date for the new MMIS, with detailed information on funding sources for those costs.

(6) Original costs for each vendor associated with the contract, the current costs for each, and the reasons for any increases in cost.

**SECTION 10.29.(b)** The Secretary may utilize prior year earned revenue received for the replacement MMIS in the amount of three million two hundred thirty-two thousand three hundred four dollars ($3,232,304) in fiscal year 2011-2012 and twelve million dollars ($12,000,000) in fiscal year 2012-2013. The Department shall utilize prior year earned revenues received for the procurement, design, development, and implementation of the replacement MMIS. In the event the Department does not receive prior year earned revenues in the amounts authorized by this section, or funds are insufficient to advance the project, the Department is authorized, with approval of the Office of State Budget and Management (OSBM), and after consulting with the Joint Legislative Commission on Governmental Operations, to utilize overrealized receipts and funds appropriated to the Department to achieve the level of funding specified in this section for the replacement MMIS. If the department requires funding beyond the prior year earned revenue specified in this section, the Department shall immediately report to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management. The report shall include the following:

(1) The amount of the shortfall.

(2) The sources of funding the Department plans to use to make up for the shortfall.

(3) The impact on the programs or operations from which the funding is to be taken.

**SECTION 10.29.(c)** The Department shall make full development of the replacement MMIS a top priority. During the development and implementation of the replacement MMIS, the Department shall develop plans to ensure the timely and effective implementation of enhancements to the system to provide the following capabilities:

(1) Receiving and tracking premiums or other payments required by law.

(2) Compatibility with the Health Information System.

**SECTION 10.29.(d)** The Department shall make every effort to expedite the implementation of the enhancements. The contract between the Department and each contract vendor shall contain an explicit provision requiring the replacement MMIS to have the capability to fully implement the administration of NC Health Choice, NC Kids' Care, Ticket to Work, Families Pay Part of the Cost of Services under the CAP-MR/CC, CAP Children's Program, and all relevant Medicaid waivers and the Medicare 646 waiver as it applies to Medicaid eligibles. The Department must have detailed cost information for each requirement before signing the contract and must immediately provide that cost information to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management. Any sole source contract must meet all State requirements and must have the written approval of the State CIO. Any decision to sole source any portion of the contract shall immediately be reported to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management.

**SECTION 10.29.(e)** The Office of the State Chief Information Officer (SCIO) and the Office of Information Technology Services (ITS) shall work in cooperation with the Department to ensure the timely and effective implementation of the replacement MMIS and enhancements. The SCIO shall ensure that the replacement MMIS meets all State requirements for project management and shall immediately report any failure to meet State project management requirements to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management. The SCIO shall also immediately report if any replacement MMIS project, or portion of a project, is listed as red in the project portfolio management tool.

**SECTION 10.29.(f)** Notwithstanding G.S. 114-2.3, the Department shall engage the services of private counsel with pertinent information technology and computer law expertise to review requests for proposals and to negotiate and review contracts associated with the replacement MMIS. This shall include amendments exceeding ten million dollars ($10,000,000). The counsel engaged by the Department shall review the replacement MMIS contracts and amendments between the Department and the vendor to ensure that the requirements of subsection (d) of this section are met in their entirety, and that the terms of the contract are in the State's best interest.

**SECTION 10.29.(g)** By August 1, 2011, the Department shall develop a revised comprehensive schedule for the development and implementation of the replacement MMIS that fully incorporates federal and State project management and review standards. The Department shall ensure that the schedule is accurate. Any changes to the design, development, and implementation schedule shall be reported as part of the Department's monthly MMIS reporting requirements. The Department shall submit the schedule to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management. This submission shall

include a detailed explanation of schedule changes that have occurred since the initiation of the project, and the cost associated with each change. Any changes to key milestones shall be immediately reported to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management, with a full explanation of the reason for the change and any associated costs.

**SECTION 10.29.(h)** Beginning July 1, 2011, the Department shall make quarterly reports on the progress of the development and implementation of the replacement MMIS. This report shall include any changes, or anticipated changes, in the scope, functionality, or projected costs. This report shall include any changes to any replacement MMIS vendor contracts and shall provide a detailed explanation of those changes and the associated cost increases. Each report shall be made to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on Health and Human Services, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management. A copy of the final report on each contract or amendment award shall also be submitted to the Joint Legislative Oversight Commission on Governmental Operations.

**SECTION 10.29.(i)** Upon initiation of the NC MMIS Program Reporting and Analytics Project, and the Division of Health Services Regulation Project, the Department shall submit all reports regarding functionality, schedule, and cost in the next regular cycle of reports identified in this section. The Department shall ensure that the solution developed in the Reporting and Analytics Project supports the capability, in its initial implementation, to interface with the State Health Plan for Teachers and State Employees. The costs for this capability shall be negotiated prior to the award of the Reporting and Analytics Project contract. The Reporting and Analytics Project solution must be completed simultaneously with the replacement MMIS.

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

**SECTION 10.30.** Of the funds appropriated in this act to the Department of Health and Human Services (Department), the nonrecurring sum of nine million five hundred ninety-two thousand three hundred thirty-two dollars ($9,592,332) for fiscal year 2011-2012 and the nonrecurring sum of nine million five hundred ninety-two thousand three hundred thirty-two dollars ($9,592,332) for fiscal year 2012-2013 shall be used to support the NC FAST project. These funds shall be (i) deposited to the Department's information technology budget code and (ii) used to match federal funds for the project. In addition, the Department shall utilize prior year earned revenues received in the amount of eight million seven hundred sixty-seven thousand six hundred ninety-six dollars ($8,767,696) in fiscal year 2011-2012 for the NC FAST project. Funds appropriated to the Department by this act shall be used to expedite the development and implementation of the Global Case Management and Food and Nutrition Services and the Eligibility Information System (EIS) components of the North Carolina Families Accessing Services through Technology (NC FAST) project. In the event that the Department does not receive prior year earned revenues in the amount authorized by this section, the Department is authorized, with approval of the Office of State Budget and Management, to utilize other overrealized receipts and funds appropriated to the Department to achieve the level of funding specified in this section for the NC FAST project. The Department shall not obligate any of its overrealized receipts or funds for this purpose without (i) prior written approval from the United States Department of Agriculture Food and Nutrition Service, the United States Department of Health and Human Services Administration for Children and Families, the Centers for Medicare and Medicaid Services, and any other federal partner responsible for approving changes to the annual Advance Planning Document update (APDu) for the NC FAST Program and (ii) prior review and approval from the Office of Information Technology Services (ITS) and the Office of State Budget and Management (OSBM). The Department shall report any changes to the NC FAST Program to the Joint Legislative Oversight Committee on Information Technology, the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human

Services, the House Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than 30 days after receiving all the approvals required by this section.

**MEDICAID**

**SECTION 10.31.(a)** Use of Funds, Allocation of Costs, Other Authorizations. –

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

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

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

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

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

**SECTION 10.31.(b)** Policy. –

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

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

(3) Fraud and abuse. – The Division of Medical Assistance, Department of Health and Human Services, shall provide incentives to counties that successfully recover fraudulently spent Medicaid funds by sharing State savings with counties responsible for the recovery of the fraudulently spent funds.

(4) Medical policy. – Unless required for compliance with federal law, the Department shall not change medical policy affecting the amount,

sufficiency, duration, and scope of health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for departmental review. If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds three million dollars ($3,000,000) in total requirements for a given fiscal year, then the Department shall submit the proposed medical policy change with the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division. The Department shall not implement any proposed medical policy change exceeding three million dollars ($3,000,000) in total requirements for a given fiscal year unless the source of State funding is identified and approved by the Office of State Budget and Management. For medical policy changes exceeding three million dollars ($3,000,000) in total requirements for a given fiscal year that are required for compliance with federal law, the Department shall submit the proposed medical policy or policy interpretation change with the five-year fiscal analysis to the Office of State Budget and Management prior to implementing the change. The Department shall provide the Office of State Budget and Management and the Fiscal Research Division a quarterly report itemizing all medical policy changes with total requirements of less than three million dollars ($3,000,000).

(5) Posting of notices of changes on Department Web site. – For any public notice of change required pursuant to the provisions of 42 C.F.R. § 447.205, the Department shall, no later than seven business days after the date of publication, publish the same notice on its Web site on the same Web page as it publishes State Plan amendments, and the notice shall remain on the Web site continuously for 90 days.

(6) Electronic transactions. – Medicaid providers shall follow the Department's established procedures for securing electronic payments and the Department shall not provide routine provider payments by check. Medicaid providers shall file claims electronically, except that nonelectronic claims submission may be required when it is in the best interest of the Department. Medicaid providers shall submit Preadmission Screening and Annual Resident Reviews (PASARR) through the Department's Web-based tool or through a vendor with interface capability to submit data into the Web-based PASARR.

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

**SECTION 10.31.(c)** Eligibility. – Eligibility for Medicaid shall be determined in accordance with the following:

(1) Medicaid and Work First Family Assistance. –

a. Income eligibility standards. – The maximum net family annual income eligibility standards for Medicaid and Work First Family Assistance and the Standard of Need for Work First Family Assistance shall be as follows:

| **CATEGORICALLY NEEDY – WFFA*** | | **MEDICALLY NEEDY** |
|---|---|---|
| Standard of Need & Families and Families and | WFFA* | Children & |

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

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

b. The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need. These standards may be changed with the approval of the Director of the Budget.

c. The Department of Health and Human Services shall provide Medicaid coverage to 19- and 20-year-olds in accordance with federal rules and regulations.

d. Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.

(2) For the following Medicaid eligibility classifications for which the federal poverty guidelines are used as income limits for eligibility determinations, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines. The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to the following:

a. All elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines.

b. Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources. Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy.

c. Infants under the age of one with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.

d. Children aged one through five with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.

e. Children aged six through 18 with family incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines and without regard to resources.

f. Family planning services to men and women of childbearing age with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources.

g. Workers with disabilities described in G.S. 108A-54.1 with unearned income equal to or less than one hundred fifty percent (150%) of the federal poverty guidelines.

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

(4) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to "independent foster care

adolescents," ages 18, 19, and 20, as defined in section 1905(w)(1) of the Social Security Act (42 U.S.C. § 1396d(w)(1)), without regard to the adolescent's assets, resources, or income levels.

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

| **Monthly Net Wages** | **Monthly Incentive Allowance** |
|---|---|
| \$1.00 to \$100.99 | Up to \$50.00 |
| \$101.00 to \$200.99 | \$80.00 |
| \$201.00 to \$300.99 | \$130.00 |
| \$301.00 and greater | \$212.00 |

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

**SECTION 10.31.(d)** Services and Payment Bases. – The Department shall spend funds appropriated for Medicaid services in accordance with the following schedule of services and payment bases. Unless otherwise provided, services and payment bases will be as prescribed in the State Plan as established by the Department of Health and Human Services and may be changed with the approval of the Director of the Budget.

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

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

(1) **Mandatory Services.** – In order to manage the Medicaid program within the annual State appropriation, the Secretary shall have the authority to submit State Plan amendments and establish temporary rules affecting the amount of service and payment rate for the following mandatory services:

a. Hospital inpatient. – Payment for hospital inpatient services will be prescribed by the State Plan as established by the Department of Health and Human Services.

b. Hospital outpatient. – Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Health and Human Services.

c. Nursing facilities. – Nursing facilities providing services to Medicaid recipients who also qualify for Medicare must be enrolled in the Medicare program as a condition of participation in the Medicaid program. State facilities are not subject to the requirement to enroll in the Medicare program. Residents of nursing facilities who are eligible for Medicare coverage of nursing facility services must be placed in a Medicare-certified bed. Medicaid shall cover facility services only after the appropriate services have been billed to Medicare.

d. Physicians, certified nurse midwife services, nurse practitioners, physician assistants. – Fee schedules as developed by the Department of Health and Human Services.

e. EPSDT screens. – Payments in accordance with rate schedule developed by the Department of Health and Human Services.

f. Home health and related services, durable medical equipment. – Payments according to reimbursement plans developed by the Department of Health and Human Services.
g. Rural health clinical services. – Provider-based, reasonable cost, nonprovider-based, single-cost reimbursement rate per clinic visit.
h. Family planning. – Negotiated rate for local health departments. For other providers see specific services, e.g., hospitals, physicians.
i. Independent laboratory and X-ray services. – Uniform fee schedules as developed by the Department of Health and Human Services.
j. Medicare Buy-In. – Social Security Administration premium.
k. Ambulance services. – Uniform fee schedules as developed by the Department of Health and Human Services. Public ambulance providers will be reimbursed at cost.
l. Medicare crossover claims. – The Department shall apply Medicaid medical policy to Medicare claims for dually eligible recipients. The Department shall pay an amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services. The Department may disregard application of this policy in cases where application of the policy would adversely affect patient care.
m. Pregnancy-related services. – Covered services for pregnant women shall include nutritional counseling, psychosocial counseling, and predelivery and postpartum home visits as described in clinical policy.
n. Mental health services. – Coverage is limited to children eligible for EPSDT services provided by:
1. Licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed marriage and family therapists, licensed clinical addictions specialists, and certified clinical supervisors, when Medicaid-eligible children are referred by the Community Care of North Carolina primary care physician, a Medicaid-enrolled psychiatrist, or the area mental health program or local management entity, and
2. Institutional providers of residential services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) for children and Psychiatric Residential Treatment Facility services that meet federal and State requirements as defined by the Department.

(2) **Optional Services.** – In order to manage the Medicaid program within the annual State appropriation, the Secretary shall have the authority to submit State Plan amendments and establish temporary rules affecting the amount of service, payment rate, or elimination of the following optional services:
a. Certified registered nurse anesthetists.
b. Community Alternative Programs.
c. Hearing aids. – Wholesale cost plus dispensing fee to provider.
d. Ambulatory surgical centers.
e. Private duty nursing, clinic services, prepaid health plans.
f. Intermediate care facilities for the mentally retarded.
g. Chiropractors, podiatrists, optometrists, dentists.
h. Dental coverage. – Dental services shall be provided on a restricted basis in accordance with criteria adopted by the Department to implement this subsection.

i. Optical supplies. – Payment for materials is made to a contractor in accordance with 42 C.F.R. § 431.54(d). Fees paid to dispensing providers are negotiated fees established by the State agency based on industry charges.

j. Physical therapy, occupational therapy, and speech therapy. – Services for adults. Payments are to be made only to qualified providers at rates negotiated by the Department of Health and Human Services.

k. Personal care services. – Payment in accordance with the State Plan developed by the Department of Health and Human Services.

l. Case management services. – Reimbursement in accordance with the availability of funds to be transferred within the Department of Health and Human Services.

m. Hospice and palliative care.

n. Medically necessary prosthetics or orthotics. – In order to be eligible for reimbursement, providers must be licensed or certified by the occupational licensing board or the certification authority having authority over the provider's license or certification. Medically necessary prosthetics and orthotics are subject to prior approval and utilization review.

o. Health insurance premiums.

p. Medical care/other remedial care. – Services not covered elsewhere in this section include related services in schools; health professional services provided outside the clinic setting to meet maternal and infant health goals.

q. Bariatric surgeries. – Covered as described in clinical policy 1A-15, Surgery for Clinically Severe Obesity. In order to raise the standard of bariatric care in North Carolina, approval for these procedures shall only be granted to those providers (facilities and surgeons) who are designated as a Bariatric Surgery Center of Excellence (BSCOE) by the American Society for Metabolic and Bariatric Surgery (ASMBS). Providers must then submit to NC Medicaid documentation of their designation as a BSCOE as well as verify their continued annual participation.

r. Drugs. –

1. Reimbursements. – Reimbursements shall be available for prescription drugs as allowed by federal regulations plus a professional services fee per month, excluding refills for the same drug or generic equivalent during the same month. Payments for drugs are subject to the provisions of this subdivision or in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. The professional services fee shall be established by the Department. In addition to the professional services fee, the Department may pay an enhanced fee for pharmacy services.

2. Limitations on quantity. – The Department of Health and Human Services may establish authorizations, limitations, and reviews for specific drugs, drug classes, brands, or quantities in order to manage effectively the Medicaid program. The Department may impose prior authorization requirements on brand-name drugs for which the phrase "medically necessary" is written on the prescription.

3. Dispensing of generic drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical Assistance Program (Title XIX

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

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

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

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

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

5A. Prior authorization. – The Department of Health and Human Services, Division of Medical Assistance, may initiate prior authorization for the prescribing of drugs specified for the

treatment of mental illness by providers who fail to prescribe those drugs in accordance with indications and dosage levels approved by the federal Food and Drug Administration. The Department may require retrospective clinical justification for the use of multiple psychotropic drugs for a Medicaid patient. For individuals 18 years of age and under who are prescribed three or more psychotropic medications, the Department shall implement clinical edits that target inefficient, ineffective, or potentially harmful prescribing patterns. When such patterns are identified, the Medical Director for the Division of Medical Assistance and the Chief of Clinical Policy for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall require a peer-to-peer consultation with the target prescribers. Alternatives discussed during the peer-to-peer consultations shall be based upon:

I. Evidence-based criteria available regarding efficacy or safety of the covered treatments; and

II. Policy approval by a majority vote of the North Carolina Physicians Advisory Group (NCPAG).

The target prescriber has final decision-making authority to determine which prescription drug to prescribe or refill.

6. Preferred Drug List. – The Department of Health and Human Services shall establish and implement a preferred drug list program under the Division of Medical Assistance. Medications prescribed for the treatment of mental illness shall be included on the Preferred Drug List (PDL).

The pharmaceutical and therapeutics committee of the Physician's Advisory Group (PAG) shall provide ongoing review of the preferred drug list, including the implementation of prior authorization on identified drugs. Members of the committee shall submit conflict of interest disclosure statements to the Department and shall have an ongoing duty to disclose conflicts of interest not included in the original disclosure.

The Department, in consultation with the PAG, shall adopt and publish policies and procedures relating to the preferred drug list, including the following:

I. Guidelines for the presentation and review of drugs for inclusion on the preferred drug list.

II. The manner and frequency of audits of the preferred drug list for appropriateness of patient care and cost-effectiveness.

III. An appeals process for the resolution of disputes.

IV. Such other policies and procedures as the Department deems necessary and appropriate.

The Department and the pharmaceutical and therapeutics committee shall consider all therapeutic classes of prescription drugs for inclusion on the preferred drug list, except medications for treatment of human immunodeficiency virus or acquired immune deficiency syndrome shall not be subject to consideration for inclusion on the preferred drug list.

The Department shall maintain an updated preferred drug list in electronic format and shall make the list available to the public on the Department's Internet Web site.

The Department shall (i) enter into a multistate purchasing pool; (ii) negotiate directly with manufacturers or labelers; (iii) contract with a pharmacy benefit manager for

negotiated discounts or rebates for all prescription drugs under the medical assistance program; or (iv) effectuate any combination of these options in order to achieve the lowest available price for such drugs under such program.

The Department may negotiate supplemental rebates from manufacturers that are in addition to those required by Title XIX of the Social Security Act. The committee shall consider a product for inclusion on the preferred drug list if the manufacturer provides a supplemental rebate. The Department may procure a sole source contract with an outside entity or contractor to conduct negotiations for supplemental rebates.

The Secretary of the Department of Health and Human Services shall establish a Preferred Drug List (PDL) Policy Review Panel within 60 days after the effective date of this section. The purpose of the PDL Policy Review Panel is to review the Medicaid PDL recommendations from the Department of Health and Human Services, Division of Medical Assistance, and the Physician Advisory Group Pharmacy and Therapeutics (PAG P&T) Committee.

The Secretary shall appoint the following individuals to the review panel: (i) the Director of Pharmacy for the Division of Medical Assistance, (ii) a representative from the PAG P&T Committee, (iii) a representative from the Old North State Medical Society, (iv) a representative from the North Carolina Association of Pharmacists, (v) a representative from Community Care of North Carolina, (vi) A representative from the North Carolina Psychiatric Association, (vii) A representative from the North Carolina Pediatric Society, (viii) A representative from the North Carolina Academy of Family Physicians, (ix) a representative from the North Carolina Chapter of the American College of Physicians, (x) a representative from a research-based pharmaceutical company, (xi) a representative from a hospital-based pharmacy.

Individuals appointed to the Review Panel, except for the Division's Director of Pharmacy, shall only serve a two-year term.

After the Department, in consultation with the PAG P&T Committee, publishes a proposed policy or procedure related to the Medicaid PDL, the Review Panel shall hold an open meeting to review the recommended policy or procedure along with any written public comments received as a result of the posting. The Review Panel shall provide an opportunity for public comment at the meeting. After the conclusion of the meeting, the Review Panel shall submit policy recommendations about the proposed Medicaid PDL policy or procedure to the Secretary.

The Department may establish a Preferred Drug List for the North Carolina Health Choice for Children program and pursue negotiated discounts or rebates for all prescription drugs under the program in order to achieve the lowest available price for such drugs under such program. The Department may procure a sole source contract with an outside entity or contractor to conduct negotiations for these discounts or rebates. The PAG P&T Committee and Preferred Drug List Policy Review Panel will provide recommendations on policies and procedures for the NC Health Choice Preferred Drug List.

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

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

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

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

3. Payments made for services rendered in accordance with this subdivision shall be qualified providers in accordance with approved policies and the State Plan. Nothing in sub-sub-subdivisions 1. or 2. of this sub-subdivision shall be interpreted to modify the scope of practice of any service provider, practitioner, or licensee, nor to modify or attenuate any collaboration or supervision requirement related to the professional activities of any service provider, practitioner, or licensee. Nothing in sub-sub-subdivisions 1. or 2. of this sub-subdivision shall be interpreted to require any private health insurer or health plan to make direct third-party reimbursements or payments to any service provider, practitioner, or licensee.

Notwithstanding G.S. 150B-21.1(a), the Department of Health and Human Services may adopt temporary rules in accordance with Chapter 150B of the General Statutes further defining the qualifications of providers and referral procedures in order to implement this subdivision. Coverage policy for services established by the Division of Medical Assistance in consultation with the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services under sub-subdivisions a. and b.2. of this subdivision shall be established by the Division of Medical Assistance.

u. Experimental/investigational medical procedures. – Coverage is limited to services, supplies, drugs, or devices recognized as standard medical care for the condition, disease, illness, or injury being treated as determined by nationally recognized scientific professional organizations or scientifically based federal organizations such as the Food and Drug Administration, the National Institutes of Health, the Centers for Disease Control, or the Agency for Health Care Research and Quality.

v. Clinical trials. – The Division of Medical Assistance shall develop clinical policy for the coverage of routine costs in clinical trial services for life-threatening conditions using resources such as coverage criteria from Medicare, NC State Health Plan, and the input of the Physician Advisory Group.

w. Organ transplants.

(3) Never Events and Hospital Acquired Conditions (HACs) shall not be reimbursed. Medicaid will adhere to Medicare requirements for definition of events and conditions.

**SECTION 10.31.(e)** Provider Performance Bonds and Visits. –

(1) Subject to the provisions of this subdivision, the Department may require Medicaid-enrolled providers to purchase a performance bond in an amount not to exceed one hundred thousand dollars ($100,000) naming as beneficiary the Department of Health and Human Services, Division of Medical Assistance, or provide to the Department a validly executed letter of credit or other financial instrument issued by a financial institution or agency honoring a demand for payment in an equivalent amount. The Department may require the purchase of a performance bond or the submission of an executed letter of credit or financial instrument as a condition of initial enrollment, reenrollment, or reinstatement if:

a. The provider fails to demonstrate financial viability.

b. The Department determines there is significant potential for fraud and abuse.

c. The Department otherwise finds it is in the best interest of the Medicaid program to do so.

The Department shall specify the circumstances under which a performance bond or executed letter of credit will be required.

(1a) The Department may waive or limit the requirements of this subsection for individual Medicaid-enrolled providers or for one or more classes of Medicaid-enrolled providers based on the following:

a. The provider's or provider class's dollar amount of monthly billings to Medicaid.

b. The length of time an individual provider has been licensed, endorsed, certified, or accredited in this State to provide services.

c. The length of time an individual provider has been enrolled to provide Medicaid services in this State.

d. The provider's demonstrated ability to ensure adequate record keeping, staffing, and services.

e. The need to ensure adequate access to care.

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

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

Prenatal services, all EPSDT children, emergency room visits, and mental health visits subject to independent utilization review are exempt from the visit limitations contained in this subdivision. Subject to appropriate medical review, the Department may authorize exceptions when additional care is medically necessary. Routine or maintenance visits above the established visit limit will not be covered unless necessary to actively

manage a life threatening disorder or as an alternative to more costly care options.

**SECTION 10.31.(f)** Exceptions and Limitations on Services; Authorization of Co-Payments and Other Services. –

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

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

(3) Provider enrollment fee. – Effective September 1, 2009, the Department of Health and Human Services, Division of Medical Assistance, shall charge an enrollment fee of one hundred dollars ($100.00), or the amount federally required, to each provider enrolling in the Medicaid program for the first time. The fee shall be charged to all providers at recredentialing every three years.

**SECTION 10.31.(g)** Rules, Reports, and Other Matters. –

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

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

**MEDICAID PROVIDER ASSESSMENTS**

**SECTION 10.31A.** The Secretary of Health and Human Services may implement a Medicaid assessment program for any willing provider category allowed under federal regulations up to the maximum percentage allowed by federal regulation. The Department may retain up to sixty-five percent (65%) of the amount from an assessment program implemented after December 31, 2010, that can be used by the Department to support Medicaid expenditures. Any assessment funds not retained by the Department shall be used to draw federal Medicaid matching funds for implementing increased rates or new reimbursement plans for each provider category being assessed.

Receipts from the assessment program are hereby appropriated for the 2011-2012 fiscal year and the 2012-2013 fiscal year for the purposes set out in this section.

**DMA CONTRACT SHORTFALL**

**SECTION 10.32.(a)** Budget approval is required by the Office of State Budget and Management prior to the Department of Health and Human Services, Division of Medical Assistance, entering into any new contract or the renewal or amendment of existing contracts that exceed the current contract amounts.

**SECTION 10.32.(b)** The Division of Medical Assistance shall make every effort to effect savings within its operational budget and use those savings to offset its contract shortfall. Notwithstanding G.S. 143C-6-4(b)(3), the Department may use funds appropriated in this act to cover the contract shortfall in the Division of Medical Assistance if insufficient funds exist within the Division.

**MEDICAID COST CONTAINMENT ACTIVITIES**

**SECTION 10.33.(a)** The Department of Health and Human Services may use up to five million dollars ($5,000,000) in the 2011-2012 fiscal year and up to five million dollars ($5,000,000) in the 2012-2013 fiscal year in Medicaid funds budgeted for program services to support the cost of administrative activities when cost-effectiveness and savings are demonstrated. The funds shall be used to support activities that will contain the cost of the Medicaid Program, including contracting for services, hiring additional staff, funding pilot programs, Health Information Exchange and Health Information Technology (HIE/HIT) administrative activities, or providing grants through the Office of Rural Health and Community Care to plan, develop, and implement cost containment programs.

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

**SECTION 10.33.(b)** The Department shall report annually on the expenditures under this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. The report shall include the methods used to achieve savings and the amount saved by these methods. The report is due to the House and Senate Appropriations Subcommittees on Health and Human Services and the Fiscal Research Division not later than December 1 of each year for the activities of the previous State fiscal year.

**MEDICAID SPECIAL FUND TRANSFER**

**SECTION 10.34.** Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143C-9-1, there is appropriated from the Medicaid Special Fund to the Department of Health and Human Services the sum of forty-three million dollars ($43,000,000) for the 2011-2012 fiscal year and the sum of forty-three million dollars ($43,000,000) for the 2012-2013 fiscal year. These funds shall be allocated as prescribed by G.S. 143C-9-1(b) for Medicaid programs. Notwithstanding the prescription in G.S. 143C-9-1(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act. The Department may also use funds in the Medicaid Special Fund to fund the settlement of the Disproportionate Share Hospital payment audit issues between the Department of Health and Human Services and the federal government related to fiscal years 1997-2002, and funds are appropriated from the Fund for the 2011-2012 fiscal year for this purpose.

**ACCOUNTING FOR MEDICAID RECEIVABLES AS NONTAX REVENUE**

**SECTION 10.35.(a)** Receivables reserved at the end of the 2011-2012 and 2012-2013 fiscal years shall, when received, be accounted for as nontax revenue for each of those fiscal years.

**SECTION 10.35.(b)** For the 2011-2012 fiscal year, the Department of Health and Human Services shall deposit from its revenues one hundred fifteen million dollars ($115,000,000) with the Department of State Treasurer to be accounted for as nontax revenue. For the 2012-2013 fiscal year, the Department of Health and Human Services shall deposit from its revenues one hundred fifteen million dollars ($115,000,000) with the Department of State Treasurer to be accounted for as nontax revenue. These deposits shall represent the return of General Fund appropriations, nonfederal revenue, fund balances or other resources from State owned and operated hospitals which are used to provide indigent and non-indigent care services. The return from State owned and operated hospitals to DHHS will be made from nonfederal resources in an amount equal to the amount of the payments from the Division of Medical Assistance for uncompensated care. The treatment of any revenue derived from federal

programs shall be in accordance with the requirements specified in the Code of Federal Regulations, Title 2, Part 225.

**FAMILIES PAY PART OF THE COST OF SERVICES UNDER THE CAP-MR/DD PROGRAM AND THE CAP-CHILDREN'S PROGRAM BASED ON FAMILY INCOME**

**SECTION 10.36.(a)** Subject to approval from the Centers for Medicare and Medicaid Services (CMS), the Department of Health and Human Services, Division of Medical Assistance, shall, in consultation with the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and Community Alternatives Program (CAP) stakeholders, develop a schedule of cost-sharing requirements for families of children with incomes above the Medicaid allowable limit to share in the costs of their child's Medicaid expenses under the CAP-MR/DD (Community Alternatives Program for Mental Retardation and Developmentally Disabled) and the CAP-C (Community Alternatives Program for Children). The cost-sharing amounts shall be based on a sliding scale of family income and shall take into account the impact on families with more than one child in the CAP programs. In developing the schedule, the Department shall also take into consideration how other states have implemented cost-sharing in their CAP programs. The Division of Medical Assistance may establish monthly deductibles as a means of implementing this cost-sharing. The Department shall provide for at least one public hearing and other opportunities for individuals to comment on the imposition of cost-sharing under the CAP program schedule.

**SECTION 10.36.(b)** The Division of Medical Assistance shall also, in collaboration with the Controller's Office of the Department of Health and Human Services, the Division of Information Resource Management (DIRM), and the new vendor of the replacement Medicaid Management Information System, develop business rules, program policies, and procedures and define relevant technical requirements.

**SECTION 10.36.(c)** Implementation of this provision shall be delayed until the implementation of the new Medicaid Management Information System.

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

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

(1) In-Home Care provision. – In order to enhance in-home aide services to Medicaid recipients, the Department of Health and Human Services, Division of Medical Assistance, shall:

a. No longer provide services under PCS and PCS-Plus the later of January 1, 2012, or whenever CMS approves the elimination of the PCS and PCS-Plus programs and the implementation of the following two new services:

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

2. In-Home Care for Adults (IHCA). – Services to meet the eating, dressing, bathing, toileting, and mobility needs of individuals 21 years of age or older who, because of a medical condition, disability, or cognitive impairment, demonstrate unmet needs for, at a minimum (i) three of the five qualifying activities of daily living (ADLs) with limited hands-on assistance; (ii) two ADLs, one of which requires extensive assistance; or (iii) two ADLs, one of which requires assistance at the full dependence level. The five qualifying ADLs are eating, dressing, bathing, toileting, and mobility.

IHCA shall serve individuals at the highest level of need for in-home care who are able to remain safely in the home.

b. Establish, in accordance with G.S. 108A-54.2, a Medical Coverage Policy for each of these programs to include:
   1. For IHCC, up to 60 hours per month in accordance with an assessment conducted by DMA or its designee and a plan of care developed by the service provider and approved by DMA or its designee. Additional hours may be authorized when the services are required to correct or ameliorate defects and physical and mental illnesses and conditions in this age group, as defined in 42 U.S.C. § 1396d(r)(5), in accordance with a plan of care approved by DMA or its designee.
   2. For IHCA, up to 80 hours per month in accordance with an assessment conducted by DMA or its designee and a plan of care developed by the service provider and approved by DMA or its designee.

c. Implement the following program limitations and restrictions to apply to both IHCC and IHCA:
   1. Additional services to children required under federal EPSDT requirements shall be provided to qualified recipients in the IHCC Program.
   2. Services shall be provided in a manner that supplements, rather than supplants, family roles and responsibilities.
   3. Services shall be authorized in amounts based on assessed need of each recipient, taking into account care and services provided by the family, other public and private agencies, and other informal caregivers who may be available to assist the family. All available resources shall be utilized fully, and services provided by such agencies and individuals shall be disclosed to the DMA assessor.
   4. Services shall be directly related to the hands-on assistance and related tasks to complete each qualifying ADL in accordance with the IHCC or IHCA assessment and plan of care, as applicable.
   5. Services provided under IHCC and IHCA shall not include household chores not directly related to the qualifying ADLs, nonmedical transportation, financial management, and non-hands-on assistance such as cueing, prompting, guiding, coaching, or babysitting.
   6. Essential errands that are critical to maintaining the health and welfare of the recipient may be approved on a case-by-case basis by the DMA assessor when there is no family member, other individual, program, or service available to meet this need. Approval, including the amount of time required to perform this task, shall be documented on the recipient's assessment form and plan of care.

d. Utilize the following process for admission to the IHCC and IHCA programs:
   1. The recipient shall be seen by his or her primary or attending physician, who shall provide written authorization for referral for the service and written attestation to the medical necessity for the service.
   2. All assessments for admission to IHCC and IHCA, continuation of these services, and change of status reviews for these services shall be performed by DMA or its designee. The DMA designee may not be an owner of a provider business or provider of in-home or personal care services of any type.

3. DMA or its designee shall determine and authorize the amount of service to be provided on a "needs basis," as determined by its review and findings of each recipient's degree of functional disability and level of unmet needs for hands-on personal assistance in the five qualifying ADLs.

e. Take all appropriate actions to manage the cost, quality, program compliance, and utilization of services provided under the IHCC and IHCA programs, including, but not limited to:

1. Priority independent reassessment of recipients before the anniversary date of their initial admission or reassessment for those recipients likely to qualify for the restructured IHCC and IHCA programs.
2. Priority independent reassessment of recipients requesting a change of service provider.
3. Targeted reassessments of recipients prior to their anniversary dates when the current provider assessment indicates they may not qualify for the program or for the amount of services they are currently receiving.
4. Targeted reassessment of recipients receiving services from providers with a history of program noncompliance.
5. Provider desk and on-site reviews and recoupment of all identified overpayments or improper payments.
6. Recipient reviews, interviews, and surveys.
7. The use of mandated electronic transmission of referral forms, plans of care, and reporting forms.
8. The use of mandated electronic transmission of uniform reporting forms for recipient complaints and critical incidents.
9. The use of automated systems to monitor, evaluate, and profile provider performance against established performance indicators.
10. Establishment of rules that implement the requirements of 42 C.F.R. § 441.16.

f. Time line for implementation of new IHCC and IHCA programs.

1. Subject to approvals from CMS, DMA shall make every effort to implement the new IHCC and IHCA programs by January 1, 2013.
2. DMA shall ensure that individuals who qualify for the IHCC and IHCA programs shall not experience a lapse in service and, if necessary, shall be admitted on the basis of their current provider assessment when an independent reassessment has not yet been performed and the current assessment documents that the medical necessity requirements for the IHCC or IHCA program, as applicable, have been met.
3. Prior to the implementation date of the new IHCC and IHCA programs, all recipients in the PCS and PCS-Plus programs shall be notified pursuant to 42 C.F.R. § 431.220(b) and discharged, and the Department shall no longer provide services under the PCS and PCS-Plus programs, which shall terminate. Recipients who qualify for the new IHCC and IHCA programs shall be admitted and shall be eligible to receive services immediately.

(2) Clinical coverage. – The Department of Health and Human Services, Division of Medical Assistance, shall amend applicable clinical policies and submit applicable State Plan amendments to Centers for Medicare and Medicaid Services (CMS) to implement the budget reductions authorized in the following clinical coverage areas in this act:

a. Eliminate or limit adult physical therapy, occupational therapy, and speech therapy visits to three visits per calendar year.

(3) MH/DD/SAS personal care and personal assistance services provision. – A denial, reduction, or termination of Medicaid-funded personal care services or in-home care services shall result in a similar denial, reduction, or termination of State-funded MH/DD/SAS personal care and personal assistance services.

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

(5) MH residential. – The Department of Health and Human Services shall restructure the Medicaid child mental health, developmental disabilities, and substance abuse residential services to ensure that total expenditures are within budgeted levels. All restructuring activities shall be in compliance with federal and State law or rule. The Divisions of Medical Assistance and Mental Health, Developmental Disabilities, and Substance Abuse Services shall establish a team inclusive of providers, LMEs, and other stakeholders to assure effective transition of recipients to appropriate treatment options. The restructuring shall address all of the following:

a. Submission of the therapeutic family service definition to CMS.

b. The Department shall reexamine the entrance and continued stay criteria for all residential services. The revised criteria shall promote least restrictive services in the home prior to residential placement. During treatment, there must be inclusion in community activities and parent or legal guardian participation in treatment.

c. Require all existing residential providers or agencies to be nationally accredited within one year of enactment of this act. Any providers enrolled after the enactment of this act shall be subject to existing endorsement and nationally accrediting requirements. In the interim, providers who are nationally accredited will be preferred providers for placement considerations.

d. Before a child can be admitted to Level III or Level IV placement, an assessment shall be completed to ensure the appropriateness of placement, and one or more of the following shall apply:

1. Placement shall be a step down from a higher level placement such as a psychiatric residential treatment facility or inpatient facility.

2. Multisystemic therapy or intensive in-home therapy services have been unsuccessful.

3. The Child and Family Team has reviewed all other alternatives and recommendations and recommends Level III or Level IV placement due to maintaining health and safety.

4. Transition or discharge plan shall be submitted as part of the initial or concurrent request.

e. Length of stay is limited to no more than 120 days. Any exceptions granted will require (i) for non-CABHAs, an independent psychological or psychiatric assessment, (ii) for CABHAs, a psychological or psychiatric assessment that may be completed by the CABHA, and (iii) for both, a Child and Family Team review of goals and treatment progress, that family or discharge placement setting are actively engaged in treatment goals and objectives, and active participation of the prior authorization of vendor.

f. Submission of discharge plan is required in order for the request for authorization for Level III or Level IV services to be considered complete, but the authorization approval is not conditional upon the receipt of the signature of the system of care coordinator. The LME will designate appropriate individuals who can sign the discharge plan within 24 hours of receipt of the discharge plan. Failure to submit a complete discharge plan will result in the request being returned as unable to process.

g. Any residential provider that ceases to function as a provider shall provide written notification to DMA, the Local Management Entity, recipients, and the prior authorization vendor 30 days prior to closing of the business.

h. Record maintenance is the responsibility of the provider and must be in compliance with record retention requirements. Records shall also be available to State, federal, and local agencies.

i. Failure to comply with notification, recipient transition planning, or record maintenance shall be grounds for withholding payment until such activity is concluded. In addition, failure to comply shall be conditions that prevent enrollment for any Medicaid or State-funded service. A provider (including its officers, directors, agents, or managing employees or individuals or entities having a direct or indirect ownership interest or control interest of five percent (5%) or more as set forth in Title XI of the Social Security Act) that fails to comply with the required record retention may be subject to sanctions, including exclusion from further participation in the Medicaid program, as set forth in Title XI.

(6) Reduce Medicaid rates. – Subject to the prior approval of the Office of State Budget and Management, the Secretary shall reduce Medicaid provider rates to accomplish the reduction in funds for this purpose enacted in this act. The reductions authorized by this subdivision are subject to the following additional limitations:

a. The Secretary of Health and Human Services shall reduce Medicaid provider rates for all Medicaid providers by an annualized three percent (3%) except as follows:

1. Physician services. – The provider rate for physicians shall not be reduced.

2. Hospital inpatient services. – The provider rate for inpatient hospital services shall be reduced in the aggregate by an annualized amount not to exceed nine and six-tenths percent (9.6%). The provider rates for non-State-owned free standing psychiatric and rehabilitation hospitals are not included in this exception.

3. The Secretary shall consider the impact on access to care through primary care providers and critical access hospitals and may adjust the rates accordingly. Medicaid rates predicated on Medicare fee schedules shall follow Medicare reductions but not Medicare increases unless federally required.

4. Exceptions for certain providers. – The rate reduction applies to all Medicaid private and public providers with the following exceptions:

I. Federally qualified health centers.
II. Rural health centers.
III. State institutions.
IV. Hospital outpatient.
V. Pharmacies.
VI. The State Public Health Laboratory.
VII. The noninflationary components of the case-mix reimbursement system for nursing facilities.

5. Notwithstanding any other provision of law, no inflationary increases shall be made to Medicaid provider rates during the 2011-2013 fiscal biennium, except that inflationary increases for health care providers paying provider fees or assessments may occur if the State share of the increases can be funded with provider fees or assessments.

b. The rate reductions required by this section shall take effect in accordance with the following schedule:

1. On or Before October 1, 2011. – The provider rate reductions required by sub-subdivision a. of this sub-subdivision shall take effect on or before October 1, 2011. However, the reductions shall be adjusted by a percentage sufficient to yield savings as if the reductions had taken effect on July 1, 2011.
2. July 1, 2012. – On July 1, 2012, the provider rate reductions required by sub-sub-subdivision a.2. of this sub-subdivision and any other rate reductions implemented pursuant to sub-subdivision a. of this subdivision, but not implemented by July 1, 2011, shall be adjusted to the level at which they would have been without the adjustment required by sub-sub-subdivision 1. of this sub-subdivision.

c. No other adjustments to the provider rates or payment methodologies shall be made for physician services, critical access hospital services, hospital inpatient services or hospital outpatient services, non-State-owned free standing psychiatric and rehabilitation hospitals, and adult care homes except as provided in sub-subdivision a. of this subdivision and except as authorized by Section 10.47(d) of this act.

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

(8) The Department of Health and Human Services shall develop a plan for the consolidation of case management services utilizing CCNC. The plan shall address the time line and process for implementation, the identification of savings, and the Medicaid recipients affected by the consolidation. Consolidation under this subdivision does not apply to HIV case management. By December 1, 2012, the Department shall report on the plan to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

(9) For the purpose of promoting cost-effective utilization of outpatient mental health services for children, DMA shall require prior authorization for services following the 16th visit.

(10) Provision of Medicaid Private Duty Nursing (PDN). – DMA shall change the Medicaid Private Duty Nursing program provided under the State Medicaid Plan, as follows:

a. Restructure the current PDN program to provide services that are:
1. Provided only to qualified recipients under the age of 21.
2. Authorized by the recipient's primary care or attending physician.
3. Limited to 16 hours of service per day, unless additional services are required to correct or ameliorate defects and physical and mental illnesses and conditions as defined in 42 U.S.C. § 1396d(r)(5).
4. Approved, based on an initial assessment and continuing need reassessments performed by an Independent Assessment Entity (IAE) that does not provide PDN services, and authorized in amounts that are medically necessary based on the recipient's medical condition, amount of family assistance available, and other relevant conditions and circumstances, as defined by the Medicaid Clinical Coverage Policy for this service.
5. Provided in accordance with a plan of care approved by DMA or its designee.

b. Develop and submit to CMS a 1915(c) Home and Community Based Services Waiver for individuals dependent on technology to substitute for a vital body function.

c. Once approved by CMS and upon approval of the Medicaid Clinical Coverage Policy, transition all qualified recipients age 21 and older currently receiving PDN to waiver services provided under the Technology Dependent Waiver.

(11) Medicaid service modifications and eliminations. – Subject to the prior approval of the Centers for Medicare and Medicaid Services where required, the Division of Medical Assistance shall make the following eliminations of or modifications to Medicaid services:

a. Optical. –
   1. Eliminate adult routine eye exams. Eye exams shall be restricted to cases in which a specific optical problem exists.
   2. Eliminate optical services and supplies.

b. Durable medical equipment. – The Department may adjust the rate paid for incontinence supplies or reduce cost through a negotiated single source contract with a manufacturer for incontinence supply procurement, notwithstanding any other provision of law. The contract shall provide that suppliers may use the contract but are also free to take advantage of better prices available elsewhere. The Department may effectuate any combination of these options in order to achieve the lowest available cost for incontinence supply procurement.

c. Specialized therapies. – For evaluations, reevaluations, as well as physical, occupational, speech, respiratory, and audiological services, reduce the maximum number of allowable services by one per year.

d. Home health. – Restrict usage of the miscellaneous T199 code. All billing must be for a specific service.

e. Pregnancy Home Model Initiative.

f. Dental. –
   1. Eliminate composite fillings for back teeth fillings.
   2. Limit the number of surfaces that can be filled to four per tooth.
   3. Limit frequency of scaling and replaning to once every two years.
   4. Raise the threshold for eligibility for replaning to 5mm from 4mm.
   5. Eliminate cast dentures for partial dentures only and replace with acrylic dentures. Change the frequency of replacement from every 10 years to every eight years.
   6. Require prior authorization for oral excision of gum tissue.
   7. Beginning the 2012-2013 fiscal year, limit adult dental to emergency and pregnant women only.

g. Miscellaneous. –
   1. Restrict usage of evaluation and management billing as well as of unlisted codes and strengthen supporting documentation requirements. Billing shall use specific service codes for specific services as a prerequisite to reimbursement.
   2. Restrict circumcision coverage to medically necessary procedures.
   3. Utilize Bloodhound, Inc., software, or comparable software, to examine billing codes that are duplicative or inconsistent with evidence-based practices.
   4. Require prior authorization for back surgery for selective diagnoses and require that all other therapies have been exhausted prior to granting authorization.
   5. Require prior authorization for capsule endoscopy but not traditional endoscopy.
   6. Require prior authorization for selected medical procedures and services, including elective cardiac procedures, chronic pain management, and related procedures.

7. Negotiate a single source contract for genetic testing, notwithstanding any other provision of law.
8. Limit outpatient specialized therapies to three visits a year.
9. Eliminate H Codes, provisionally licensed MH billing, and reduce service limits.
10. Eliminate podiatry, except for diabetes.
11. Eliminate adult physical therapy, occupational therapy, and speech therapy.
12. Reduce nursing homes ceiling to one hundred percent (100%).
13. Eliminate respiratory therapy.
14. Eliminate chiropractic services.
15. Eliminate home infusion therapy.
16. Eliminate over-the-counter drugs.

The modifications and eliminations under sub-sub-subdivisions g.8. through g.14. become effective in the 2012-2013 fiscal year. The eliminations under sub-sub-subdivisions g.15. and g.16. become effective in the 2011-2012 fiscal year.

**SECTION 10.37.(b)** At least 30 days prior to the adoption of new or amended medical coverage policies necessitated by the reductions to the Medicaid program enacted in this act, the Department shall:

(1) Publish the proposed new or amended medical coverage policies via the Medicaid Bulletin published on the Department's Web site, which shall include an invitation to readers to send written comments on the proposed new or amended policies to the Department's mailing address, including e-mail.
(2) Notify via direct mail the members of the Physician Advisory Group (PAG) of the proposed policies.
(3) Update the policies published on the Web site to reflect any changes made as a result of written comments received from the PAG and others.
(4) Provide written notice to recipients about changes in policy.

**SECTION 10.37.(c)** The Department of Health and Human Services shall not implement any actions directed by this act if the Department determines that such actions would jeopardize the receipt of federal funds appropriated or allocated to the Department.

**MEDICAID WAIVER FOR ASSISTED LIVING**

**SECTION 10.38.(a)** The Department of Health and Human Services, Division of Medical Assistance (Division), shall develop and implement a home- and community-based services program under Medicaid State Plan 1915(i) authority in order to continue Medicaid funding of personal care services to individuals living in adult care homes. Providers who do not accept reimbursement for residents' personal care services through Medicaid or do not accept reimbursement through the State-County Special Assistance program shall not be subject to the provisions, requirements, or conditions of the Medicaid waiver pursuant to this section.

**SECTION 10.38.(b)** The Division shall implement the program upon approval of the application by the Centers for Medicare and Medicaid Services.

**SECTION 10.38.(c)** On or before April 1, 2012, the Division shall provide a report on the status of approval and implementation of the program to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

**PROGRAM INTEGRITY**

**SECTION 10.39.** In order to ensure all claims presented by a provider for payment by the Department of Health and Human Services meet the Department's medical necessity criteria and all other applicable Medicaid, Health Choice, or other federal or State documentation requirements, a provider may be required to undergo prepayment claims review by DHHS. Claims reviews conducted pursuant to this section shall be in accordance with the

provisions of the Patient Protection and Affordable Care Act, P.L. 111-148, and any implementing regulations.

**TRANSFER TO OFFICE OF ADMINISTRATIVE HEARINGS**

**SECTION 10.40.** From funds available to the Department of Health and Human Services (Department) for the 2011-2012 fiscal year, the sum of one million dollars ($1,000,000), and for the 2012-2013 fiscal year the sum of one million dollars ($1,000,000), shall be transferred by the Department of Health and Human Services to the Office of Administrative Hearings (OAH). These funds shall be allocated by the OAH for mediation services provided for Medicaid applicant and recipient appeals and to contract for other services necessary to conduct the appeals process. OAH shall continue the Memorandum of Agreement (MOA) with the Department for mediation services provided for Medicaid recipient appeals and contracted services necessary to conduct the appeals process. The MOA will facilitate the Department's ability to draw down federal Medicaid funds to support this administrative function. Upon receipt of invoices from OAH for covered services rendered in accordance with the MOA, the Department shall transfer the federal share of Medicaid funds drawn down for this purpose.

**NC HEALTH CHOICE**

**SECTION 10.41.(a)** G.S. 108A-54.3 is amended by adding a new subdivision to read:

"**§ 108A-54.3. Procedures for changing medical policy.**

The Department shall develop, amend, and adopt medical coverage policy in accordance with the following:

...

(5) Any changes in medical policy that require an amendment to the Health Choice State Plan will be submitted by the Department upon approval of the proposed policy."

**SECTION 10.41.(b)** G.S. 108A-70.21(b) reads as rewritten:

"(b) Benefits. – All health benefits changes of the Program shall meet the coverage requirements set forth in this subsection. Except as otherwise provided for eligibility, fees, deductibles, copayments, and other cost sharing charges, health benefits coverage provided to children eligible under the Program shall be equivalent to coverage provided for dependents under ~~the Predecessor Plan.~~ North Carolina Medicaid Program except for the following:

(1) No services for long-term care.

(2) No nonemergency medical transportation.

(3) No EPSDT.

(4) Dental services shall be provided on a restricted basis in accordance with criteria adopted by the Department to implement this subsection.

In addition to the benefits provided under the ~~Predecessor Plan,~~ North Carolina Medicaid Program, the following services and supplies are covered under the Health Insurance Program for Children established under this Part:

~~(1) Oral examinations, teeth cleaning, and topical fluoride treatments twice during a 12-month period, full mouth X-rays once every 60 months, supplemental bitewing X-rays showing the back of the teeth once during a 12-month period, sealants, extractions, other than impacted teeth or wisdom teeth, therapeutic pulpotomies, space maintainers, root canal therapy for permanent anterior teeth and permanent first molars, prefabricated stainless steel crowns, and routine fillings of amalgam or other tooth colored filling material to restore diseased teeth.~~

~~(1a) Orthognathic surgery to correct functionally impairing malocclusions when orthodontics was approved and initiated while the child was covered by Medicaid and the need for orthognathic surgery was documented in the orthodontic treatment plan.~~

(2) Vision: Scheduled routine eye examinations once every 12 months, eyeglass lenses or contact lenses once every 12 months, routine replacement of eyeglass frames once every 24 months, and optical supplies and solutions when needed. ~~Optical~~ NCHC recipients must obtain optical services, supplies, and solutions ~~must be obtained~~ from NCHC enrolled, licensed or

certified ophthalmologists, optometrists, or ~~optical dispensing laboratories.~~ opticians. In accordance with G.S. 148-134, NCHC providers must order complete eyeglasses, eyeglass lenses, and ophthalmic frames through Nash Optical Plant. Eyeglass lenses are limited to NCHC-approved single vision, bifocal, trifocal, or other complex lenses necessary for a Plan enrollee's visual welfare. Coverage for oversized lenses and frames, designer frames, photosensitive lenses, tinted contact lenses, blended lenses, progressive multifocal lenses, coated lenses, and laminated lenses is limited to the coverage for single vision, bifocal, trifocal, or other complex lenses provided by this subsection. Eyeglass frames are limited to ~~those~~ NCHC-approved frames made of zylonite, metal, or a combination of zylonite and metal. All visual aids covered by this subsection require prior approval. Requests for medically necessary complete eyeglasses, eyeglass lenses, and ophthalmic frames outside of the NCHC-approved selection require prior approval. Requests for medically necessary fabrication of complete eyeglasses or eyeglass lenses outside of Nash Optical Plant require prior approval. Upon prior approval refractions may be covered more often than once every 12 months.

(3) ~~Hearing: Auditory diagnostic testing services and hearing aids and accessories when provided by a licensed or certified audiologist, otolaryngologist, or other approved hearing aid specialist. Prior approval is required for hearing aids, accessories, earmolds, repairs, loaners, and rental aids.~~Under the North Carolina Health Choice Program for Children, the co-payment for nonemergency visits to the emergency room for children whose family income is at or below one hundred fifty percent (150%) of the federal poverty level is ten dollars ($10.00). The co-payment for children whose family income is between one hundred fifty-one percent (151%) and two hundred percent (200%) of the federal poverty level is twenty-five dollars ($25.00).

(4) Over the counter medications: Selected over the counter medications provided the medication is covered under the State Medical Assistance Plan. Coverage shall be subject to the same policies and approvals as required under the Medicaid program.

(5) Routine diagnostic examinations and tests: annual routine diagnostic examinations and tests, including x-rays, blood and blood pressure checks, urine tests, tuberculosis tests, and general health check-ups that are medically necessary for the maintenance and improvement of individual health are covered.

No benefits are to be provided for services and materials under this subsection that do not meet the standards accepted by the American Dental Association.

The Department shall provide services to children enrolled in the NC Health Choice Program through Community Care of North Carolina (CCNC) and shall pay Community Care of North Carolina providers ~~for these services~~ the per member, per month fees as allowed under Medicaid. ~~The Department shall pay for these services only if sufficient information is available to the Department for utilization management of the services provided through CCNC.~~"

**SECTION 10.41.(c)** G.S. 108A-70.23 is repealed.

**SECTION 10.41.(d)** G.S. 108A-70.27(c) reads as rewritten:

"(c) ~~The Executive Administrator and Board of Trustees of the North Carolina Teachers' and State Employees' Major Medical Plan ("Plan")~~ The Division of Medical Assistance shall provide to the Department data required under this section that are collected by the Plan. Data shall be reported by the Plan in sufficient detail to meet federal reporting requirements under Title XXI. The Plan shall report periodically to the Joint Legislative Health Care Oversight Committee claims processing data for the Program and any other information the Plan or the Committee deems appropriate and relevant to assist the Committee in its review of the Program."

**SECTION 10.41.(e)** G.S. 108A-70.29 is amended by adding a new subsection to read:

"(f) Additional Rule-Making Authority. – The Department of Health and Human Services shall have the authority to adopt rules for the transition and operation of the North Carolina Health Choice Program. Notwithstanding G.S. 150B-21.1(a), the Department of Health and Human Services may adopt temporary rules in accordance with Chapter 150B of the General Statutes for enrolling providers to participate in the NC Health Choice Program, for regulating provider participation in the NC Health Choice Program, and for other operational issues regarding the NC Health Choice Program."

**SECTION 10.41.(f)** The Department shall begin to transition all health benefit changes of the Program to meet the coverage requirements set forth in subsection (b) of this section.

**MEDICATION THERAPY MANAGEMENT PILOT**

**SECTION 10.42.(a)** The Department of Health and Human Services shall develop a two-year medication therapy management pilot program to be administered through Community Care of North Carolina (CCNC) in order to determine (i) the best method of adapting the ChecKmedsNC program to the Medicaid program and CCNC's Medical Homes and (ii) the most effective and efficient role for community-based pharmacists as active members of CCNC's care management teams. The pilot program created pursuant to this section shall consist of the following components:

(1) Identification of at least 20 community-based pharmacies that are geographically distributed and sufficiently representative to generalize pilot findings among pharmacies that dedicate pharmacist time to work with patients, their care team members, and their Medical Home practices to improve patient outcomes. To the extent that available resources allow, other types of community-based pharmacists may be involved, including those working with long-term care residents or their attending physicians.

(2) Targeting of Medicaid recipients with co-occurring illnesses or conditions that are especially susceptible to poor patient outcomes when medication is underused, misused, or poorly coordinated.

(3) Allowing pharmacists identified pursuant to subdivision (1) of this section to have access to CCNC's Web-based Pharmacy Portal, which allows CCNC to establish and monitor patients' prescriptions and to communicate with other care team members.

**SECTION 10.42.(b)** On January 1, 2012, and every six months thereafter, CCNC shall report to the Department of Health and Human Services, the House and Senate Appropriations Subcommittees on Health and Human Services, and the Fiscal Research Division on the development and implementation of this pilot program. This reporting requirement shall terminate with the filing of the third report on January 1, 2013. In addition to any other information, the reports required by this section shall include the following additional information:

(1) The July 1, 2012, report shall include an interim evaluation of the pharmacists' demonstrated use of the CCNC Pharmacy Home Model and the pharmacists' role in intervening and successfully managing the medication therapy of Medicaid recipients with chronic illnesses.

(2) The January 1, 2013, report shall include an evaluation of the pharmacists' role in CCNC's management of Medicaid recipients with mental health diagnoses or who receive Home Health or Nursing Home care, and a determination of the appropriate per member/per month pharmacists should receive for participating in the Medical Home Model of CCNC.

**SECTION 10.42.(c)** Funding for this pilot program shall be made available through the Enhanced Federal Funding for Health Homes for the Chronically Ill.

**MEDICAID RECIPIENT APPEALS**

**SECTION 10.44.(a)** G.S. 108A-70.9A reads as rewritten:

**"§ 108A-70.9A. Appeals by Medicaid recipients.**

(a) Definitions. – The following definitions apply in this Part, unless the context clearly requires otherwise.

(1) Adverse determination. – A determination by the Department to deny, terminate, suspend, or reduce a Medicaid service or an authorization for a Medicaid service.
(2) OAH. – The Office of Administrative Hearings.
(3) Recipient. – A recipient ~~and~~ or the recipient's ~~parent,~~parent or legal guardian, ~~or legal representative,~~ unless otherwise specified.

(b) General Rule. – Notwithstanding any provision of State law or rules to the contrary, this section shall govern the process used by a Medicaid recipient to appeal an adverse determination made by the Department.

(c) Adverse Notice. – Except as otherwise provided by federal law or regulation, at least 10 days before the effective date of an adverse determination, the Department shall notify the recipient, and the provider, if applicable, in writing of the adverse determination and of the recipient's right to appeal the adverse determination. The Department shall not be required to notify a recipient's ~~parent, guardian, or legal representative~~ parent or legal guardian unless the recipient's ~~parent, guardian, or legal representative~~ parent or legal guardian has requested in writing to receive the notice. The notice shall be mailed on the date indicated on the notice as the date of the determination. The notice shall include:
(1) An identification of the recipient whose services are being affected by the adverse determination, including the recipient's full name and Medicaid identification number.
(2) An explanation of what service is being denied, terminated, suspended, or reduced and the reason for the determination.
(3) The specific regulation, statute, or medical policy that supports or requires the adverse determination.
(4) The effective date of the adverse determination.
(5) An explanation of the recipient's right to appeal the Department's adverse determination in an evidentiary hearing before an administrative law judge.
(6) An explanation of how the recipient can request a hearing and a statement that the recipient may represent himself or herself or use legal counsel, a relative, or other spokesperson.
(7) A statement that the recipient will continue to receive Medicaid services at the level provided on the day immediately preceding the Department's adverse determination or the amount requested by the recipient, whichever is less, if the recipient requests a hearing before the effective date of the adverse determination. The services shall continue until the hearing is completed and a final decision is rendered.
(8) The ~~name and~~ telephone number of ~~a contact person at~~ the ~~Department~~ Department's Medicaid Appeals Section and 1-800 number to respond in a timely fashion to the recipient's questions.
(9) The telephone number by which the recipient may contact a Legal Aid/Legal Services office.
(10) The individualized departmental appeal request form described in subsection (e) of this section that the recipient may use to request a hearing.

(d) Appeals. – Except as provided by this section and G.S. 108A-70.9B, a request for a hearing to appeal an adverse determination of the Department under this section is a contested case subject to the provisions of Article 3 of Chapter 150B of the General Statutes. The recipient shall request a hearing within 30 days of the mailing of the notice required by subsection (c) of this section by ~~sending an~~ properly filing a completed appeal request form ~~to OAH and the Department.~~ with OAH. Where a request for hearing concerns the reduction, modification, or termination of Medicaid services, including the failure to act upon a timely request for reauthorization with reasonable promptness, upon the receipt of ~~a timely appeal,~~ an appeal filed within 10 days of the date of the adverse notice, the Department shall reinstate or continue the services ~~to~~ at the level or manner prior to action by the Department as permitted by federal law or ~~regulation.~~ regulation and as required by subdivision (c)(7) of this section. If the hearing request is submitted more than 10 days from the date of the adverse notice, and regardless of whether OAH accepts the appeal and schedules the case for hearing, the Department shall not authorize payment for services at the level provided on the day immediately preceding the Department's adverse determination or the amount requested by the recipient pending the outcome of the appeal. The Department shall immediately forward a copy

of the notice to OAH electronically. The information contained in the notice is confidential unless the recipient appeals. OAH may dispose of the records after one year. The Department may not influence, limit, or interfere with the recipient's decision to request a hearing.

(e) Appeal Request Form. – Along with the notice required by subsection (c) of this section, the Department shall also provide the recipient with an appeal request form which shall be no more than one side of one page. Only a completed individualized hearing request form provided by the Department shall be accepted for hearing by OAH. Appeal request forms filed more than 30 days from the date of the adverse notice shall not be accepted for hearing by OAH under any circumstances. Within 24 hours of receipt of a properly filed individualized Departmental appeal request form, OAH shall notify the Department by facsimile or electronic messaging. The form shall include the following:

(1) A statement that in order to request an appeal, the recipient must send the completed individualized Departmental appeal request form by mail or fax to the address or fax number listed on the form within 30 days of ~~mailing of the notice.~~ the date of the adverse notice, which is the date the notice was mailed.

(1a) A statement that the completed individualized Departmental request form must be properly filed with OAH on or before the effective date of the adverse notice for maintenance of services to continue during the pendency of the appeal.

(2) The recipient's name, address, ~~telephone number,~~ and Medicaid identification number.

(3) A preprinted statement that indicates that the recipient would like to appeal the specific adverse determination of which the recipient was notified in the notice.

(4) A statement informing the recipient that he or she may choose to be represented by a lawyer, a relative, a friend, or other spokesperson.

(5) A space for the recipient's signature and ~~date.~~date, telephone number, and current address.

(6) If the recipient designates a personal representative, a space for the personal representative's name, telephone number, and current address.

(f) Final Decision. – After a hearing before an administrative law judge, the judge shall return the decision and record to the Department in accordance with G.S. 108A-70.9B. The Department shall make a final decision in the case within 20 days of receipt of the decision and record from the administrative law judge and promptly notify the recipient of the final decision and of the right to judicial review of the decision pursuant to Article 4 of Chapter 150B of the General Statutes."

**SECTION 10.44.(b)** G.S. 108A-70.9B reads as rewritten:

"**§ 108A-70.9B. Contested Medicaid cases.**

(a) Application. – This section applies only to contested Medicaid cases commenced by Medicaid recipients under G.S. 108A-70.9A. Except as otherwise provided by G.S. 108A-70.9A and this section governing time lines and procedural steps, a contested Medicaid case commenced by a Medicaid recipient is subject to the provisions of Article 3 of Chapter 150B of the General Statutes. To the extent any provision in this section or G.S. 108A-70.9A conflicts with another provision in Article 3 of Chapter 150B of the General Statutes, this section and G.S. 108A-70.9A control.

(b) Simple Procedures. – Notwithstanding any other provision of Article 3 of Chapter 150B of the General Statutes, the chief administrative law judge may limit and simplify the procedures that apply to a contested Medicaid case involving a Medicaid recipient in order to complete the case as quickly as possible.

(1) To the extent possible, OAH shall schedule and hear contested Medicaid cases within 55 days of submission of a ~~request for appeal.~~timely filed completed individualized Departmental appeal request form.

(2) Hearings shall be conducted telephonically or by video technology with all parties, however the recipient may request that the hearing be conducted in person before the administrative law judge. An in-person hearing shall be conducted in Wake County, however, for good cause shown, the in-person hearing may be conducted in the county of residence of the recipient or a nearby county. Good cause shall ~~include, but is not limited to,~~be limited to

the recipient's impairments limiting ~~travel or the unavailability of the recipient's treating professional witnesses. The Department shall provide written notice to the recipient of the use of telephonic hearings, hearings by video conference, and in-person hearings before the administrative law judge, and how to request a hearing in the recipient's county of residence.~~travel.

(3) The simplified procedure may include requiring that all prehearing motions be considered and ruled on by the administrative law judge in the course of the hearing of the case on the merits. An administrative law judge assigned to a contested Medicaid case shall make reasonable efforts in a case involving a Medicaid recipient who is not represented by an attorney to assure a fair hearing and to maintain a complete record of the hearing.

(4) The administrative law judge may allow brief extensions of the time limits contained in this section for good cause and to ensure that the record is complete. Good cause includes delays resulting from untimely receipt of documentation needed to render a decision and other unavoidable and unforeseen circumstances. Continuances shall only be granted in accordance with rules adopted by OAH and shall not be granted on the day of the hearing, except for good cause shown. If a petitioner fails to make an appearance at a hearing that has been properly noticed via certified mail by OAH, OAH shall immediately dismiss the contested case, unless the recipient moves to show good cause within three business days of the date of dismissal. Good cause to reopen a contested Medicaid case under these circumstances shall be limited to medical or other documented emergencies involving the recipient or his or her witnesses. A failure to answer the telephone for a properly noticed telephone hearing shall not constitute good cause sufficient to continue the case on the date of the hearing or reopen a previously dismissed contested Medicaid case.

(5) The notice of hearing provided by OAH to the recipient shall include the following information:

a. The recipient's right to examine at a reasonable time before the hearing and during the hearing the contents of the recipient's case file and documents to be used by the Department in the hearing before the administrative law judge.

b. The recipient's right to an interpreter during the appeals process.

c. Circumstances in which a medical assessment may be obtained at agency expense and be made part of the record. Qualifying circumstances include those in which (i) a hearing involves medical issues, such as a diagnosis, an examining physician's report, or a medical review team's decision; and (ii) the administrative law judge considers it necessary to have a medical assessment other than that performed by the individual involved in making the original decision.

(c) Mediation. – Upon receipt of an appeal request form as provided by G.S. 108A-70.9A(e) or other clear request for a hearing by a Medicaid recipient, OAH shall immediately notify the Mediation Network of North Carolina, which shall contact the recipient within five days to offer mediation in an attempt to resolve the dispute. If mediation is accepted, the mediation must be completed within 25 days of submission of the request for appeal. Upon completion of the mediation, the mediator shall inform OAH and the Department within 24 hours of the resolution by facsimile or electronic messaging. In cases where the mediator only informs OAH of the mediation results, OAH shall transmit the mediation decision to the Department within 24 hours of receipt from the mediator. If the parties have resolved matters in the mediation, OAH shall dismiss the case. OAH shall not conduct a hearing of any contested Medicaid case until it has received notice from the mediator assigned that either: (i) the mediation was unsuccessful, or (ii) the petitioner has rejected the offer of mediation, or (iii) the petitioner has failed to appear at a scheduled mediation. Nothing in this subsection shall restrict the right to a contested case hearing.

(d) Burden of Proof. – The recipient has the burden of proof ~~to show entitlement to a requested benefit or the propriety of requested agency action when the agency has denied the benefit or refused to take the particular action. The agency has the burden of proof when the~~

~~appeal is from an agency determination to impose a penalty or to reduce, terminate, or suspend a previously granted benefit.~~ in all cases heard pursuant to G.S. 108A-70.9A. The party with the burden of proof on any issue has the burden of going forward, and the administrative law judge shall not make any ruling on the preponderance of evidence until the close of all evidence.

(e) New Evidence. – The recipient shall be permitted to submit evidence regardless of whether obtained prior to or subsequent to the Department's actions and regardless of whether the Department had an opportunity to consider the evidence in making its adverse determination. When the evidence is received, at the request of the Department, the administrative law judge shall continue the hearing for a minimum of 15 days and a maximum of 30 days to allow for the Department's review of the evidence. Subsequent to review of the evidence, if the Department reverses its original decision, it shall immediately inform the administrative law judge.

(f) Issue for Hearing. – For each adverse determination, the hearing shall determine whether the Department substantially prejudiced the rights of the recipient and if the Department, based upon evidence at the hearing:

(1) Exceeded its authority or jurisdiction.
(2) Acted erroneously.
(3) Failed to use proper procedure.
(4) Acted arbitrarily or capriciously.
(5) Failed to act as required by law or rule.

(g) Decision. – The administrative law judge assigned to a contested Medicaid case shall hear and decide the case without unnecessary delay. OAH shall send a copy of the audiotape or diskette of the hearing to the agency within five days of completion of the hearing. The judge shall prepare a written decision and send it to the parties. The decision shall be sent together with the record to the agency within 20 days of the conclusion of the hearing."

**DEPARTMENT TO DETERMINE COST-SAVINGS FOR MEDICAID THAT WOULD RESULT FROM PROVISION OF MUSCULOSKELETAL HEALTH SERVICES**

**SECTION 10.45.(a)** The Department of Health and Human Services shall study and determine the cost-savings that would result for Medicaid if the following measures were implemented:

(1) Healthcare providers who have expertise in musculoskeletal conditions and who are willing to assist emergency departments were identified.
(2) Evidence-based medical criteria were developed, implemented, and supported for high-cost/high-risk elective musculoskeletal procedures.
(3) Patient management services were provided to primary care and emergency department physicians who provided musculoskeletal services.

**SECTION 10.45.(b)** The Department shall report its findings to the House and Senate Appropriations Subcommittees on Health and Human Services and to the Fiscal Research Division on or before October 1, 2011.

**DHHS SAVINGS THROUGH CCNC**

**SECTION 10.47.(a)** The Department of Health and Human Services, in conjunction with Community Care of North Carolina (CCNC) Networks and North Carolina Community Care, Inc., shall obtain savings totaling eighty-three million seventy-one thousand five hundred eighty-one dollars ($83,071,581) for the 2011-2012 fiscal year and ninety million dollars ($90,000,000) for the 2012-2013 fiscal year through cooperation and effective cost savings on the part of various health care providers.

**SECTION 10.47.(b)** The Department of Health and Human Services shall monitor the performance of the CCNC Networks and the expenditures of various health care providers to determine the extent to which the savings required by subsection (a) of this section are being achieved.

**SECTION 10.47.(c)** On or before October 1, 2011, and quarterly thereafter, the Department shall report to the House and Senate Appropriations Subcommittees on Health and Human Services and to the Fiscal Research Division on the savings being achieved pursuant to this section.

**SECTION 10.47.(d)** If, by October 1, 2011, or anytime thereafter, savings are not being achieved at a rate sufficient to yield savings in the amount required by subsection (a) of

this section, the Secretary of Health and Human Services shall, to the extent required in order to achieve savings at the required rate, take whatever actions are necessary, including the following to be effective January 1, 2012:

(1) Reduce Medicaid provider rates by up to two percent (2%). This reduction shall be in addition to other provider rate reductions in this act.

(2) Eliminate or reduce the level or duration of optional Medicaid services.

**INCREASE GENERIC DRUG DISPENSING RATE IN MEDICAID BY REVISING PHARMACY DISPENSING FEES FOR PHARMACISTS THAT DISPENSE HIGH PROPORTIONS OF GENERIC DRUGS**

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

**SECTION 10.48.(b)** The Department shall report its progress in achieving the savings required by subsection (a) of this section on November 1, 2011, January 1, 2012, and quarterly thereafter to the House and Senate Appropriations Subcommittees on Health and Human Services and to the Fiscal Research Division. If any report required by this subsection reveals that those savings are not being achieved, the Department shall reduce prescription drug rates by an amount sufficient to achieve the savings.

**NC NOVA**

**SECTION 10.49.** The Department of Health and Human Services, Division of Health Service Regulation, may use up to thirty-eight thousand dollars ($38,000) for fiscal year 2011-2012 and up to thirty-eight thousand dollars ($38,000) for fiscal year 2012-2013 of existing resources to continue the NC New Organizational Vision Award special licensure designation program established under G.S. 131E-154.14. The Division shall use federal civil monetary penalty receipts as a source of support for this initiative, when appropriate.

**INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND PERFORMANCE ENHANCEMENTS**

**SECTION 10.50.(a)** Notwithstanding the provisions of G.S. 143B-150.6, the Intensive Family Preservation Services (IFPS) Program shall provide intensive services to children and families in cases of abuse, neglect, and dependency where a child is at imminent risk of removal from the home and to children and families in cases of abuse where a child is not at imminent risk of removal. The Program shall be developed and implemented statewide on a regional basis. The IFPS shall ensure the application of standardized assessment criteria for determining imminent risk and clear criteria for determining out-of-home placement.

**SECTION 10.50.(b)** The Department of Health and Human Services shall require that any program or entity that receives State, federal, or other funding for the purpose of IFPS shall provide information and data that allows for the following:

(1) An established follow-up system with a minimum of six months of follow-up services.

(2) Detailed information on the specific interventions applied, including utilization indicators and performance measurement.

(3) Cost-benefit data.

(4) Data on long-term benefits associated with IFPS. This data shall be obtained by tracking families through the intervention process.

(5) The number of families remaining intact and the associated interventions while in IFPS and 12 months thereafter.

(6) The number and percentage, by race, of children who received IFPS compared to the ratio of their distribution in the general population involved with Child Protective Services.

**SECTION 10.50.(c)** The Department shall establish a performance-based funding protocol and shall only provide funding to those programs and entities providing the required information specified in subsection (b) of this section. The amount of funding shall be based on the individual performance of each program.

**FOSTER CARE AND ADOPTION ASSISTANCE PAYMENT RATES**

**SECTION 10.51.** Part 4 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

"**§ 108A-49.1. Foster care and adoption assistance payment rates.**

(a) The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

(1) $475.00 per child per month for children from birth through five years of age.

(2) $581.00 per child per month for children six through 12 years of age.

(3) $634.00 per child per month for children 13 through 18 years of age.

(b) The maximum rates for the State adoption assistance program are established consistent with the foster care rates as follows:

(1) $475.00 per child per month for children from birth through five years of age.

(2) $581.00 per child per month for children six through 12 years of age.

(3) $634.00 per child per month for children 13 through 18 years of age.

(c) The maximum rates for the State participation in human immunodeficiency virus (HIV) foster care and adoption assistance are established on a graduated scale as follows:

(1) $800.00 per child per month with indeterminate HIV status.

(2) $1,000 per child per month with confirmed HIV infection, asymptomatic.

(3) $1,200 per child per month with confirmed HIV infection, symptomatic.

(4) $1,600 per child per month when the child is terminally ill with complex care needs.

In addition to providing board payments to foster and adoptive families of HIV-infected children, any additional funds remaining that are appropriated for purposes described in this subsection shall be used to provide medical training in avoiding HIV transmission in the home.

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

**ADOPTION ASSISTANCE VENDOR PAYMENTS**

**SECTION 10.51A.(a)** The Department of Health and Human Services, Division of Social Services, is authorized to eliminate the Adoption Assistance Vendor payments for all adoptions finalized on or after July 1, 2011. All agreements entered into prior to July 1, 2011, will remain in effect.

**SECTION 10.51A.(b)** Eligibility for Adoption Assistance is clarified to mean that only children who have been in foster care are eligible for Adoption Assistance.

**CHILD CARING INSTITUTIONS**

**SECTION 10.52.** Until the Social Services Commission adopts rules setting standardized rates for child caring institutions as authorized under G.S. 143B-153(8), the maximum reimbursement for child caring institutions shall not exceed the rate established for the specific child caring institution by the Department of Health and Human Services, Office of the Controller. In determining the maximum reimbursement, the State shall include county and IV-E reimbursements.

**REPEAL STATE ABORTION FUND**

**SECTION 10.53.** Section 93 of Chapter 479 of the 1985 Session Laws, as amended by Section 75 of Chapter 738 of the 1987 Session Laws, Section 72 of Chapter 500 of the 1989 Session Laws, Section 79 of Chapter 1066 of the 1989 Session Laws, Section 106 of Chapter 689 of the 1991 Session Laws, Section 259.1 of Chapter 321 of the 1993 Session Laws, Section 23.27 of Chapter 324 of the 1995 Session Laws, and Section 23.8A of Chapter 507 of the 1995 Session Laws, is repealed.

**CHILD WELFARE POSTSECONDARY SUPPORT PROGRAM**

**SECTION 10.54.(a)** Of the funds appropriated from the General Fund to the Department of Health and Human Services, the sum of one million five hundred eighty-four thousand one hundred twenty-five dollars ($1,584,125) for the 2011-2012 fiscal year and one million five hundred eighty-four thousand one hundred twenty-five dollars ($1,584,125) for the 2012-2013 fiscal year shall be used to support the child welfare postsecondary support program for the educational needs of foster youth aging out of the foster care system and special needs children adopted from foster care after age 12 by providing assistance with the "cost of attendance" as that term is defined in 20 U.S.C. § 1087ll.

Funds appropriated by this subsection shall be allocated by the State Education Assistance Authority.

**SECTION 10.54.(b)** Of the funds appropriated from the General Fund to the Department of Health and Human Services, the sum of fifty thousand dollars ($50,000) for the 2011-2012 fiscal year and the sum of fifty thousand dollars ($50,000) for the 2012-2013 fiscal year shall be allocated to the North Carolina State Education Assistance Authority (SEAA). The SEAA shall use these funds only to perform administrative functions necessary to manage and distribute scholarship funds under the child welfare postsecondary support program.

**SECTION 10.54.(c)** Of the funds appropriated from the General Fund to the Department of Health and Human Services, the sum of three hundred thirty-nine thousand four hundred ninety-three dollars ($339,493) for the 2011-2012 fiscal year and the sum of three hundred thirty-nine thousand four hundred ninety-three dollars ($339,493) for the 2012-2013 fiscal year shall be used to contract with an entity to administer the child welfare postsecondary support program described under subsection (a) of this section, which administration shall include the performance of case management services.

**SECTION 10.54.(d)** Funds appropriated to the Department of Health and Human Services for the child welfare postsecondary support program shall be used only for students attending public institutions of higher education in this State.

**TANF BENEFIT IMPLEMENTATION**

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

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

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

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

**SECTION 10.55.(e)** In the event that departmental projections of Work First Family Assistance and Work First Diversion Assistance for the 2011-2012 fiscal year indicate that remaining funds are insufficient for Work First Family Assistance and Work First Diversion Assistance payments to be made on behalf of Standard Counties, the Department is authorized to deallocate funds, of those allocated to Electing Counties for Work First Family Assistance in excess of the sums set forth in G.S. 108A-27.11, up to the requisite amount for payments in Standard Counties. Prior to deallocation, the Department shall obtain approval by the Office of State Budget and Management. If the Department adjusts the allocation set forth in subsection (d) of this section, then a report shall be made to the Joint Legislative Commission on Governmental Operations, the House of Representatives Appropriations

Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

**PAYMENTS FOR LIEAP/CIP**

**SECTION 10.56.(a)** Part 1 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

"**§ 108A-25.4. Use of payments under the Low-Income Energy Assistance Program and Crisis Intervention Program.**

(a) The Low-Income Energy Assistance Program Plan developed by the Department of Health and Human Services (Department) and submitted to the U.S. Department of Health and Human Services shall focus the annual energy assistance payments on the elderly population age 60 and above with income up to one hundred thirty percent (130%) of the federal poverty level and disabled persons receiving services through the Division of Aging and Adult Services. The energy assistance payment shall be paid directly to the service provider by the county department of social services. The Plan for Crisis Intervention Program (CIP) shall provide assistance for vulnerable populations who meet income eligibility criteria established by the Department. The CIP payment shall be paid directly to the service provider by the county department of social services and shall not exceed six hundred dollars ($600.00) per household in a fiscal year.

(b) The Department shall submit the Plan for each program to the U.S. Department of Health and Human Services no later than September 1 of each year and implement the Plan no later than October 1 of each year."

**SECTION 10.56.(b)** Beginning September 1, 2011, on or before September 1 of each year and for a period of three years thereafter, the Department of Health and Human Services shall submit a copy of the Plan to the House Appropriations Subcommittee on Health and Human Services and Senate Appropriations Committee on Health and Human Services.

**NON-MEDICAID REIMBURSEMENT CHANGES**

**SECTION 10.58.(a)** Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no higher than those under the North Carolina Medical Assistance Program.

The Department of Health and Human Services may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse providers in non-Medicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Notwithstanding the provisions of this section, the Department of Health and Human Services may negotiate with providers of medical services under the various Department of Health and Human Services programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible patients, residents, and clients who require such services that cannot be provided when limited to the Medicaid rate.

Maximum net family annual income eligibility standards for services in these programs shall be as follows:

| | |
|---|---|
| DSB Medical Eye Care | 125% FPL |
| DSB Independent Living <55 | 125% FPL |
| DSB Independent Living 55> | 200% FPL |
| DSB Vocational Rehabilitation | 125% FPL |
| DVR Independent Living | 125% FPL |
| DVR Vocational Rehabilitation | 125% FPL |

The Department of Health and Human Services shall contract at, or as close as possible to, Medicaid rates for medical services provided to residents of State facilities of the Department.

**SECTION 10.58.(b)** Subject to the prior approval of the Office of State Budget and Management, the Secretary shall reduce provider rates for services rendered for the Medical Eye Care, Independent Living, and Vocational Rehabilitation programs within the Division of Services for the Blind, and Independent Living and Vocational Rehabilitation

programs within the Division of Vocational Rehabilitation to accomplish the reduction in funds for this purpose enacted in this act.

**STATE-COUNTY SPECIAL ASSISTANCE**

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

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

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

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

**DHHS BLOCK GRANTS**

**SECTION 10.60.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2012, according to the following schedule:

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

Local Program Expenditures

| | | |
|---|---|---|
| Division of Social Services | | |
| 01. | Work First Family Assistance | $ 79,840,356 |
| 02. | Work First County Block Grants | 94,453,315 |
| 03. | Work First Electing Counties | 2,378,213 |
| 04. | Adoption Services – Special Children's Adoption Fund | 3,609,355 |
| 05. | Family Violence Prevention | 2,200,000 |
| 06. | Child Protective Services – Child Welfare Workers for Local DSS | 14,452,391 |
| 07. | Child Welfare Collaborative | 754,115 |
| Division of Child Development | | |
| 08. | Subsidized Child Care Program | 67,439,721 |
| Division of Public Health | | |
| 09. | Teen Pregnancy Initiatives | 450,000 |
| DHHS Administration | | |
| 10. | Division of Social Services | 1,093,176 |
| 11. | Office of the Secretary | 75,392 |
| Transfers to Other Block Grants | | |
| Division of Child Development | | |
| 12. | Transfer to the Child Care and Development Fund | 82,210,675 |
| 13. | Transfer to Social Services Block Grant for Child Protective Services – Child Welfare Training in Counties | 1,300,000 |
| 14. | Transfer to Social Services Block Grant for Foster Care Services | 650,829 |
| 15. | Transfer to Social Services Block Grant for Child Protective Services | 5,040,000 |
| 16. | Transfer to Social Services Block Grant for Adult Protective Services | 1,191,925 |
| 17. | Transfer to Social Services Block Grant for County Departments of Social Services | 375,000 |
| 18. | Transfer to Social Services Block Grant for Independent Living Program | 1,000,000 |
| TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS | | $ 358,514,463 |

**TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS**

Local Program Expenditures

Division of Social Services

| | | |
|---|---|---|
| 01. | NC FAST | $ 1,664,936 |
| 02. | Work First – Boys and Girls Clubs | 2,500,000 |
| 03. | Maternity Homes | 943,002 |

Division of Public Health

| | | |
|---|---|---|
| 04. | Teen Pregnancy Initiatives | 2,500,000 |

DHHS Administration

| | | |
|---|---|---|
| 05. | Division of Social Services | 1,389,084 |

TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS $ 8,997,022

**SOCIAL SERVICES BLOCK GRANT**

Local Program Expenditures

Divisions of Social Services and Aging and Adult Services

| | | |
|---|---|---|
| 01. | County Departments of Social Services | $ 29,288,783 |
| 02. | Child Protective Services (Transfer from TANF) | 5,040,000 |
| 03. | Adult Protective Services (Transfer from TANF) | 1,191,925 |
| 04. | State In-Home Services Fund | 2,101,113 |
| 05. | State Adult Day Care Fund | 2,155,301 |
| 06. | Child Protective Services/CPS Investigative Services-Child Medical Evaluation Program | 609,455 |
| 07. | Foster Care Services (Transfer from TANF $650,829) | 2,147,967 |
| 08. | Special Children Adoption Incentive Fund | 500,000 |
| 09. | Child Protective Services-Child Welfare Training for Counties (Transfer from TANF) | 1,300,000 |
| 10. | Home and Community Care Block Grant (HCCBG) | 1,834,077 |
| 11. | Child Advocacy Centers | 375,000 |
| 11A. | Food Banks | 1,000,000 |

Division of Central Management and Support

| | | |
|---|---|---|
| 12. | ALS Association Jim "Catfish" Hunter Chapter | 400,000 |
| | Division of Mental Health, Developmental Disabilities, and Substance Abuse Services | |
| 13. | Mental Health Services Program | 422,003 |
| 14. | Developmental Disabilities Services Program | 5,000,000 |
| 15. | Mental Health Services-Adult and Child/Developmental Disabilities Program/ Substance Abuse Services-Adult | 3,234,601 |
| | Division of Public Health | |
| 16. | Prevent Blindness | 150,000 |
| | Division of Vocational Rehabilitation | |
| 17. | Vocational Rehabilitation Services – Easter Seal Society/UCP Community Health Program | 188,263 |
| | DHHS Program Expenditures | |
| | Division of Aging and Adult Services | |
| 18. | UNC-CARES Training Contract | 247,920 |
| | Division of Services for the Blind | |
| 19. | Independent Living Program (Transfer from TANF $1,000,000) | 4,633,077 |
| 20. | Accessible Electronic Information for Blind and Disabled Persons | 75,000 |
| | Division of Health Service Regulation | |
| 21. | Adult Care Licensure Program | 411,897 |
| 22. | Mental Health Licensure and Certification Program | 205,668 |
| | DHHS Administration | |
| 23. | Division of Aging and Adult Services | 688,436 |
| 24. | Division of Social Services | 892,624 |
| 25. | Office of the Secretary/Controller's Office | 138,058 |
| 26. | Office of the Secretary/DIRM | 87,483 |
| 27. | Division of Child Development | 15,000 |
| 28. | Division of Mental Health, Developmental Disabilities, and Substance Abuse Services | 29,665 |
| 29. | Division of Health Service Regulation | 235,625 |

| | | |
|---|---|---|
| 30. | Office of the Secretary-NC Interagency Council for Coordinating Homeless Programs | 250,000 |
| 31. | Office of the Secretary | 48,053 |

Transfers to Other Block Grants

Division of Public Health

| | | |
|---|---|---|
| 32. | Transfer to Preventive Health Services Block Grant for HIV/STD Prevention and Community Planning | 145,819 |

TOTAL SOCIAL SERVICES BLOCK GRANT $ 65,042,813

**LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

Local Program Expenditures

Division of Social Services

| | | |
|---|---|---|
| 01. | Low-Income Energy Assistance Program (LIEAP) | $ 11,862,617 |
| 02. | Crisis Intervention Program (CIP) | 48,569,233 |
| 02A. | NC FAST Implementation | 4,732,667 |

Local Administration

Division of Social Services

| | | |
|---|---|---|
| 03. | County DSS Administration | 5,604,940 |

DHHS Administration

| | | |
|---|---|---|
| 04. | Office of the Secretary/DIRM | 276,784 |
| 05. | Office of the Secretary/Controller's Office | 12,332 |

Transfers to Other State Agencies

Department of Commerce

| | | |
|---|---|---|
| 06. | Weatherization Program | 500,000 |
| 07. | Heating Air Repair and Replacement Program (HARRP) | 4,744,344 |
| 08. | Local Residential Energy Efficiency Service Providers – Weatherization | 25,000 |
| 09. | Local Residential Energy Efficiency Service Providers – HARRP | 227,038 |
| 10. | Department of Commerce Administration – Weatherization | 25,000 |
| 11. | Department of Commerce Administration – HARRP | 227,038 |

| | |
|---|---|
| Department of Administration | |
| 12. N.C. Commission on Indian Affairs | 110,638 |
| TOTAL LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT | $ 76,917,631 |

**CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

| | |
|---|---|
| Local Program Expenditures | |
| Division of Child Development | |
| 01. Subsidized Child Care Services (CCDF) | $ 151,534,624 |
| 02. Electronic Tracking System | 3,336,345 |
| 03. Subsidized Child Care Services (Transfer from TANF) | 82,210,675 |
| 04. Quality and Availability Initiatives (TEACH Program $3,800,000) | 25,948,434 |
| Division of Social Services | |
| 05. Local Subsidized Child Care Services Support (4% Administrative Allowance) | 16,471,587 |
| DHHS Administration | |
| Division of Child Development | |
| 06. DCD Administrative Expenses | 6,539,277 |
| Division of Central Administration | |
| 07. DHHS Central Administration – DIRM Technical Services | 774,317 |
| TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT | $ 286,815,255 |

**MENTAL HEALTH SERVICES BLOCK GRANT**

| | |
|---|---|
| Local Program Expenditures | |
| 01. Mental Health Services – Adult | $ 6,656,212 |
| 02. Mental Health Services – Child | 5,121,991 |
| 03. Administration | 100,000 |
| TOTAL MENTAL HEALTH SERVICES BLOCK GRANT | $ 11,878,203 |

**SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

Local Program Expenditures

Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

| | | |
|---|---|---|
| 01. | Substance Abuse Services – Adult | $ 20,008,541 |
| 02. | Substance Abuse Treatment Alternative for Women | 8,107,303 |
| 03. | Substance Abuse – HIV and IV Drug | 5,116,378 |
| 04. | Substance Abuse Prevention – Child | 7,186,857 |
| 05. | Substance Abuse Services – Child | 4,940,500 |
| 06. | Institute of Medicine | 250,000 |
| 07. | Administration | 250,000 |
| | Division of Public Health | |
| 08. | Risk Reduction Projects | 633,980 |
| 09. | Aid-to-Counties | 209,576 |
| | TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT | $ 46,703,135 |

**MATERNAL AND CHILD HEALTH BLOCK GRANT**

| | | |
|---|---|---|
| | Local Program Expenditures | |
| | Division of Public Health | |
| 01. | Children's Health Services | $ 8,528,156 |
| 02. | Women's Health | 8,510,783 |
| 03. | Oral Health | 42,268 |
| | DHHS Program Expenditures | |
| | Division of Public Health | |
| 04. | Children's Health Services | 1,417,087 |
| 05. | Women's Health | 136,628 |
| 06. | State Center for Health Statistics | 164,318 |
| 07. | Quality Improvement in Public Health | 1,636 |
| 08. | Health Promotion | 89,374 |
| 09. | Office of Minority Health | 40,141 |
| | DHHS Administration | |
| | Division of Public Health | |
| 10. | Division of Public Health Administration | 631,966 |
| | TOTAL MATERNAL AND CHILD | |

| | | |
|---|---|---|
| HEALTH BLOCK GRANT | | $ 19,562,357 |
| **PREVENTIVE HEALTH SERVICES BLOCK GRANT** | | |
| Local Program Expenditures | | |
| Division of Public Health | | |
| 01. | NC Statewide Health Promotion | $ 1,730,653 |
| 02. | Services to Rape Victims | 89,152 |
| 03. | HIV/STD Prevention and Community Planning (Transfer from Social Services Block Grant) | 145,819 |
| DHHS Program Expenditures | | |
| Division of Public Health | | |
| 04. | State Center for Health Statistics | 55,040 |
| 05. | NC Statewide Health Promotion | 947,056 |
| 06. | Oral Health | 70,000 |
| 07. | State Laboratory of Public Health | 16,600 |
| 08. | Services to Rape Victims | 107,960 |
| TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT | | $ 3,162,280 |
| **COMMUNITY SERVICES BLOCK GRANT** | | |
| Local Program Expenditures | | |
| Office of Economic Opportunity | | |
| 01. | Community Action Agencies | $ 18,075,488 |
| 02. | Limited Purpose Agencies | 1,004,194 |
| DHHS Administration | | |
| 03. | Office of Economic Opportunity | 1,004,194 |
| TOTAL COMMUNITY SERVICES BLOCK GRANT | | $ 20,083,876 |

**GENERAL PROVISIONS**

**SECTION 10.60.(b)** Information to Be Included in Block Grant Plans. – The Department of Health and Human Services shall submit a separate plan for each Block Grant received and administered by the Department, and each plan shall include the following:

(1) A delineation of the proposed allocations by program or activity, including State and federal match requirements.

(2) A delineation of the proposed State and local administrative expenditures.

(3) An identification of all new positions to be established through the Block Grant, including permanent, temporary, and time-limited positions.

(4) A comparison of the proposed allocations by program or activity with two prior years' program and activity budgets and two prior years' actual program or activity expenditures.

(5) A projection of current year expenditures by program or activity.
(6) A projection of federal Block Grant funds available, including unspent federal funds from the current and prior fiscal years.

**SECTION 10.60.(c)** Changes in Federal Fund Availability. – If the Congress of the United States increases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall allocate the increase proportionally across the program and activity appropriations identified for that Block Grant in this section. In allocating an increase in federal fund availability, the Office of State Budget and Management shall not approve funding for new programs or activities not appropriated in this section.

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

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

**SECTION 10.60.(d)** Appropriations from federal Block Grant funds are made for the fiscal year ending June 30, 2012, according to the schedule enacted for State fiscal year 2011-2012 or until a new schedule is enacted by the General Assembly.

**SECTION 10.60.(e)** All changes to the budgeted allocations to the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services that are not specifically addressed in this section shall be approved by the Office of State Budget and Management, and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations for review prior to implementing the changes. The report shall include an itemized listing of affected programs, including associated changes in budgeted allocations. All changes to the budgeted allocations to the Block Grants shall be reported immediately to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. This subsection does not apply to Block Grant changes caused by legislative salary increases and benefit adjustments.

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

**SECTION 10.60.(e1)** The sum of ninety-four million four hundred fifty-three thousand three hundred fifteen dollars ($94,453,315) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for the 2011-2012 fiscal year shall be used for Work First County Block Grants. The Division shall certify these funds in the appropriate State level services based on prior year actual expenditures. The Division has the authority to realign the authorized budget for these funds among the State level services based on current year actual expenditures.

**SECTION 10.60.(f)** The sum of one million ninety-three thousand one hundred seventy-six dollars ($1,093,176) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for the 2011-2012 fiscal year shall be used to support administration of TANF-funded programs.

**SECTION 10.60.(g)** The sum of two million two hundred thousand dollars ($2,200,000) appropriated under this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for the 2011-2012 fiscal year shall be used to provide domestic violence services to Work First recipients. These funds shall be used to provide domestic violence counseling, support, and other direct services to clients. These funds shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts. The Division of Social Services may use up to seventy-five thousand dollars ($75,000) in TANF funds to support one administrative position within the Division of Social Services to implement this subsection.

Each county department of social services and the local domestic violence shelter program serving the county shall develop jointly a plan for utilizing these funds. The plan shall include the services to be provided and the manner in which the services shall be delivered. The county plan shall be signed by the county social services director or the director's designee and the domestic violence program director or the director's designee and submitted to the Division of Social Services by December 1, 2011. The Division of Social Services, in consultation with the Council for Women, shall review the county plans and shall provide consultation and technical assistance to the departments of social services and local domestic violence shelter programs, if needed.

The Division of Social Services shall allocate these funds to county departments of social services according to the following formula: (i) each county shall receive a base allocation of five thousand dollars ($5,000) and (ii) each county shall receive an allocation of the remaining funds based on the county's proportion of the statewide total of the Work First caseload as of July 1, 2011, and the county's proportion of the statewide total of the individuals receiving domestic violence services from programs funded by the Council for Women as of July 1, 2011. The Division of Social Services may reallocate unspent funds to counties that submit a written request for additional funds.

**SECTION 10.60.(h)** The sum of fourteen million four hundred fifty-two thousand three hundred ninety-one dollars ($14,452,391) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in TANF funds for the 2011-2012 fiscal year for child welfare improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and post-adoption services for eligible families.

**SECTION 10.60.(i)** The sum of three million six hundred nine thousand three hundred fifty-five dollars ($3,609,355) appropriated in this section in TANF funds to the Department of Health and Human Services, Special Children Adoption Fund, for the 2011-2012 fiscal year shall be used in accordance with G.S. 108A-50.2, as enacted in Section 10.48 of S.L. 2009-451. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

**SECTION 10.60.(j)** The sum of seven hundred fifty-four thousand one hundred fifteen dollars ($754,115) appropriated in this section to the Department of Health and Human Services in TANF funds for the 2011-2012 fiscal year shall be used to continue support for the Child Welfare Collaborative.

**TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) CONTINGENCY FUNDS**

**SECTION 10.60.(k)** The sum of two million five hundred thousand dollars ($2,500,000) appropriated in this section to the Department in TANF funds for Boys and Girls Clubs for the 2011-2012 fiscal year shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of TANF Contingency funds, shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youths and to implement other initiatives that would be expected to reduce gang participation, school dropout, and teen pregnancy rates. The Department shall facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs and encourage them to submit joint applications for the funds if appropriate.

**SECTION 10.60.(l)** The sum of one million three hundred eighty-nine thousand eighty-four dollars ($1,389,084) appropriated in this section in TANF Contingency funds to the Department of Health and Human Services, Division of Social Services, for the 2011-2012 fiscal year shall be used to support administration of TANF-funded programs.

SOCIAL SERVICES BLOCK GRANT

**SECTION 10.60.(l1)** The sum of twenty-nine million two hundred eighty-eight thousand seven hundred eighty-three dollars ($29,288,783) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2011-2012 fiscal year shall be used for County Block Grants. The Division shall certify these funds in the appropriate State level services based on prior year actual expenditures. The Division has the authority to realign the authorized budget for these funds among the State level services based on current year actual expenditures.

**SECTION 10.60.(m)** The sum of one million three hundred thousand dollars ($1,300,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2011-2012 fiscal year shall be used to support various child welfare training projects as follows:

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

**SECTION 10.60.(n)** The sum of two million one hundred forty-seven thousand nine hundred sixty-seven dollars ($2,147,967) appropriated in this section in the Social Services Block Grant for child caring agencies for the 2011-2012 fiscal year shall be allocated in support of State foster home children.

**SECTION 10.60.(o)** The Department of Health and Human Services is authorized, subject to the approval of the Office of State Budget and Management, to transfer Social Services Block Grant funding allocated for departmental administration between divisions that have received administrative allocations from the Social Services Block Grant.

**SECTION 10.60.(p)** Social Services Block Grant funds appropriated for the Special Children's Adoption Incentive Fund will require a fifty percent (50%) local match.

**SECTION 10.60.(q)** The sum of four hundred twenty-two thousand three dollars ($422,003) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2011-2012 fiscal year shall be used to continue a Mental Health Services Program for children.

**SECTION 10.60.(r)** The sum of five million forty thousand dollars ($5,040,000) appropriated in this section in the Social Services Block Grant for the 2011-2012 fiscal year shall be allocated to the Department of Health and Human Services, Division of Social Services. The Division shall allocate these funds to local departments of social services to replace the loss of Child Protective Services State funds that are currently used by county government to pay for Child Protective Services staff at the local level. These funds shall be used to maintain the number of Child Protective Services workers throughout the State. These Social Services Block Grant funds shall be used to pay for salaries and related expenses only and are exempt from 10A NCAC 71R .0201(3) requiring a local match of twenty-five percent (25%).

**SECTION 10.60.(s)** The sum of four hundred thousand dollars ($400,000) appropriated in this section in the Social Services Block Grant for the 2011-2012 fiscal year to the Department of Health and Human Services, Division of Central Management and Support, shall be allocated to the ALS Association, Jim "Catfish" Hunter Chapter, to be used to provide patient care and community services to persons with ALS and their families. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

**SECTION 10.60.(t)** The sum of one hundred fifty thousand dollars ($150,000) appropriated in this section in the Social Services Block Grant for the 2011-2012 fiscal year to the Department of Health and Human Services, Division of Public Health, shall be allocated to Prevent Blindness North Carolina to be used for direct service programs. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

**SECTION 10.60.(u)** The sum of seventy-five thousand dollars ($75,000) appropriated in this section in the Social Services Block Grant for the 2011-2012 fiscal year to the Department of Health and Human Services, Division of Services for the Blind, shall be used to provide accessible electronic information for blind and disabled persons. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

**SECTION 10.60.(v)** The sum of three hundred seventy-five thousand dollars ($375,000) appropriated in this section in the Social Services Block Grant for the 2011-2012 fiscal year to the Department of Health and Human Services, Division of Social Services, shall

be used to continue support for the Child Advocacy Centers and are exempt from the provisions of 10A NCAC 71R .0201(3).

**SECTION 10.60.(w)** Social Services Block Grant funds allocated to the North Carolina Inter-Agency Council for 2011-2012 fiscal year for coordinating homeless programs and child medical evaluations are exempt from the provisions of 10A NCAC 71R .0201(3).

**LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT**

**SECTION 10.60.(x)** Additional emergency contingency funds received may be allocated for Energy Assistance Payments or Crisis Intervention Payments without prior consultation with the Joint Legislative Commission on Governmental Operations. Additional funds received shall be reported to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division upon notification of the award. The Department of Health and Human Services shall not allocate funds for any activities, including increasing administration, other than assistance payments, without prior consultation with the Joint Legislative Commission on Governmental Operations.

**SECTION 10.60.(y)** The sum of eleven million eight hundred sixty-two thousand six hundred seventeen dollars ($11,862,617) appropriated in this section in the Low-Income Home Energy Assistance Block Grant for the 2011-2012 fiscal year to the Department of Health and Human Services, Division of Social Services, shall be used for energy assistance payments for the households of (i) elderly persons age 60 and above with income up to one hundred thirty percent (130%) of the federal poverty level and (ii) disabled persons eligible for services funded through the Division of Aging and Adult Services. County departments of social services shall submit to the Division of Social Services an outreach plan for targeting households with 60-year-old household members no later than August 1 of each year.

**SECTION 10.60.(y1)** The sum of four million seven hundred thirty-two thousand six hundred sixty-seven dollars ($4,732,667) appropriated in this section in the Low-Income Home Energy Assistance Block Grant for the 2011-2012 fiscal year to the Department of Health and Human Services, Central Management and Support Division, shall be used to continue the implementation of the NCFAST program. The U.S. Department of Health and Human Services has authorized the use of the LIEAP program service funds to continue the implementation of the NCFAST program. This meets the required participation based on the federally approved cost allocation plan. In order to advance the implementation of NCFAST, which creates a single portal of entry for the Department Health and Human Services programs, these federal funds are critical, otherwise State funds will have to be identified.

**CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT**

**SECTION 10.60.(z)** Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

**SECTION 10.60.(aa)** If funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

**SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

**SECTION 10.60.(bb)** The sum of two hundred fifty thousand dollars ($250,000) appropriated in this section in the Substance Abuse Prevention and Treatment Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2011-2012 fiscal year for the North Carolina Institute of Medicine (NCIOM) shall be used to continue its Task Force on the mental health, social, and emotional needs of young children and their families. In addition to the issues identified in Section 16.1 of S.L. 2010-152, the Task Force shall study the impact of parents' substance use problems on the mental health and social and emotional well-being of children from conception through age five. The NCIOM shall make an interim report to the General Assembly no later than January 15, 2012, which may include legislative and other recommendations, and shall issue its final report with findings, recommendations, and any proposed legislation to the 2013 General Assembly upon its convening.

**MATERNAL AND CHILD HEALTH BLOCK GRANT**

**SECTION 10.60.(cc)** The sum of one million four hundred ninety-seven thousand dollars ($1,497,000) appropriated in this section in the Maternal and Child Health Block Grant for the 2011-2012 fiscal year to the Department of Health and Human Services, Division of Public Health, shall be used to fund the following activities as indicated:

(1) March of Dimes to provide folic acid and education for women before pregnancy to reduce birth defects and infant mortality, the sum of three hundred fifty thousand dollars ($350,000).

(2) Teen Pregnancy Prevention, the sum of six hundred fifty thousand dollars ($650,000).

(3) Healthy Start/Safe Sleep, the sum of two hundred forty-seven thousand dollars ($247,000).

(4) Perinatal Quality Collaborative of North Carolina, the sum of two hundred fifty thousand dollars ($250,000).

**SECTION 10.60.(dd)** If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2011-2012 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an abstinence until marriage education program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4) and (4a). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

**SECTION 10.60.(ee)** The Department of Health and Human Services shall ensure that there will be follow-up testing in the Newborn Screening Program.

## PART XI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

**REPEAL BOARD OF AGRICULTURE REVIEW OF FEE SCHEDULES**

**SECTION 11.2.** G.S. 106-6.1(b) is repealed.

**RECLASSIFY THREE VACANT POSITIONS WITHIN DACS TO ANIMAL WELFARE PROGRAM**

**SECTION 11.7.** The Department of Agriculture and Consumer Services shall reclassify three vacant positions within the Department and shall fill these reclassified positions in a timely manner in order to provide support for the Animal Welfare Program within the Department.

## PART XII. DEPARTMENT OF LABOR

**LABOR/REPEAL STATUTE REQUIRING BIENNIAL REVIEW OF FEES BY DEPARTMENT**

**SECTION 12.1.** G.S. 95-14.1 is repealed.

## PART XIII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

**ABOLISH, TRANSFER TO OTHER DEPARTMENTS, OR CONSOLIDATE WITHIN DENR ALL ENVIRONMENTAL HEALTH PROGRAMS UNDER DENR**

**SECTION 13.3.(a)** The Vector Control Program and the Tick Control Program within the Division of Environmental Health of the Department of Environment and Natural Resources are abolished. Further, any equipment that the State loaned to any local health department as part of the Vector Control Program that is in the possession of the local health department shall be retained by that local health department, and the ownership of that equipment shall be transferred from the State to that local health department.

**SECTION 13.3.(b)** All functions, powers, duties, and obligations previously vested in the Sleep Products Program within the Public Health Pest Management Section of the Division of Environmental Health of the Department of Environment and Natural Resources are transferred to and vested in the Department of Agriculture and Consumer Services by a Type I transfer, as defined in G.S. 143A-6.

**SECTION 13.3.(c)** The following sections of the Division of Environmental Health that support programs implemented through local health departments and programs primarily focused on food safety and other public health concerns are, subject to subsection (b) of this section, transferred from the Department of Environment and Natural Resources to the Division of Public Health of the Department of Health and Human Services with all the elements of a Type I transfer, as defined by G.S. 143A-6:

(1) Environmental Health Services Section.
(2) Grade "A" Milk Sanitation Program.
(3) On-Site Water Protection Section.
(4) Office of Education and Training.

**SECTION 13.3.(d)** All functions, powers, duties, and obligations previously vested in the Radiation Protection Section within the Division of Environmental Health of the Department of Environment and Natural Resources are transferred to and vested in the Division of Health Safety Regulation of the Department of Health and Human Services by a Type I transfer, as defined in G.S. 143A-6.

**SECTION 13.3.(e)** The Public Water Supply Section of the Division of Environmental Health of the Department of Environment and Natural Resources shall be transferred to the Division of Water Resources of the Department of Environment and Natural Resources with all the elements of a Type I transfer, as defined by G.S. 143A-6.

**SECTION 13.3.(f)** The Shellfish Sanitation and Recreational Water Quality Section of the Division of Environmental Health of the Department of Environment and Natural Resources shall be transferred to the Division of Marine Fisheries of the Department of Environment and Natural Resources with all the elements of a Type I transfer, as defined by G.S. 143A-6.

**SECTION 13.3.(g)** The Division of Environmental Health of the Department of Environment and Natural Resources is abolished, and the Public Health Pest Management Section of the Division of Environmental Health of the Department of Environment and Natural Resources is abolished.

**SECTION 13.3.(h)** G.S. 143B-279.3(c)(3) is repealed.

**SECTION 13.3.(i)** Part 1 of Article 12 of Chapter 130A of the General Statutes is repealed.

**SECTION 13.3.(j)** G.S. 143-300.8 reads as rewritten:

"**§ 143-300.8. Defense of local sanitarians.**

Any local health department sanitarian enforcing rules of the Commission for Public Health ~~or of the Environmental Management Commission~~ under the supervision of the Department of ~~Environment and Natural Resources~~Health and Human Services pursuant to G.S. 130A-4 shall be defended by the Attorney General, subject to the provisions of G.S. 143-300.4, and shall be protected from liability in accordance with the provisions of this Article in any civil or criminal action or proceeding brought against the sanitarian in his official or individual capacity, or both, on account of an act done or omission made in the scope and course of enforcing the rules of the Commission for Public ~~Health or of the Environmental Management Commission.~~Health. The Department of Environment and Natural Resources shall pay any judgment against the sanitarian, or any settlement made on his behalf, subject to the provisions of G.S. 143-300.6."

**SECTION 13.3.(k)** G.S. 106-143 reads as rewritten:

"**§ 106-143. Article construed supplementary.**

Nothing in this Article shall be construed as in any way amending, abridging, or otherwise affecting the validity of any law or ordinance relating to the Commission for Public Health or the Department of Environment and Natural Resources or any local health department in their sanitary work in connection with public and private water supplies, sewerage, meat, milk, milk products, ~~shellfish, finfish,~~ or other foods, or food products, or the production, handling, or processing of these items."

**SECTION 13.3.(l)** Part 8 of Article 8 of Chapter 130A of the General Statutes is recodified as Article 4H of Chapter 106 of the General Statutes, to be entitled "Bedding"; G.S. 130A-261 is recodified as G.S. 106-65.95; G.S. 130A-262 is recodified as G.S. 106-65.96; G.S. 130A-263 is recodified as G.S. 106-65.97; G.S. 130A-264 is recodified as G.S. 106-65.98; G.S. 130A-265 is recodified as G.S. 106-65.99; G.S. 130A-266 is recodified as G.S. 106-65.100; G.S. 130A-267 is recodified as G.S. 106-65.101; G.S. 130A-268 is recodified as G.S. 106-65.102; G.S. 130A-269 is recodified as G.S. 106-65.103; G.S. 130A-270 is

recodified as G.S. 106-65.104; G.S. 130A-271 is recodified as G.S. 106-65.105; G.S. 130A-272 is recodified as G.S. 106-65.106; and G.S. 130A-273 is recodified as G.S. 106-65.107.

**SECTION 13.3.(m)** G.S. 106-65.95, as recodified under subsection (l) of this section, reads as rewritten:

"**§ 106-65.95. Definitions.**

The following definitions shall apply throughout this ~~Part:~~Article:

...."

**SECTION 13.3.(n)** G.S. 106-65.96, as recodified under subsection (l) of this section, reads as rewritten:

"**§ 106-65.96. Sanitizing.**

(a) No person shall sell any renovated bedding or secondhand bedding unless it is sanitized in accordance with rules adopted by the ~~Commission.~~Board of Agriculture.

(b) A sanitizing apparatus or process shall not be used for sanitizing bedding or material required to be sanitized under this ~~Part~~ Article until the apparatus is approved by the ~~Department.~~Department of Agriculture and Consumer Services.

(c) A person who sanitizes bedding shall attach to the bedding a yellow tag containing information required by the rules of the ~~Commission.~~Board of Agriculture.

(d) A person who sanitizes material or bedding for another person shall keep a complete record of the kind of material and bedding which has been sanitized. The record shall be subject to inspection by the ~~Department.~~Department of Agriculture and Consumer Services.

(e) A person who receives used bedding for renovation or storage shall attach to the bedding a tag on which is legibly written the date of receipt and the name and address of the owner."

**SECTION 13.3.(o)** G.S. 106-65.98, as recodified under subsection (l) of this section, reads as rewritten:

"**§ 106-65.98. Storage of used materials.**

No establishment shall store any unsanitized previously used materials in the same room with bedding or materials that are new or have been sanitized unless the new or sanitized bedding or materials are completely segregated from the unsanitized materials in a manner approved by the rules of the ~~Commission.~~Board of Agriculture."

**SECTION 13.3.(p)** G.S. 106-65.99, as recodified under subsection (l) of this section, reads as rewritten:

"**§ 106-65.99. Tagging requirements.**

(a) A tag of durable material approved by the ~~Commission~~ Board of Agriculture shall be sewed securely to all bedding. The tag shall be at least two inches by three inches in size.

(b) The following shall be plainly stamped or printed upon the tag with ink in English:

(1) The name and kind of material or materials used to fill the bedding which are listed in the order of their predominance;

(2) A registration number obtained from the ~~Department;~~Department of Agriculture and Consumer Services; and

(3) In letters at least one-eighth inch high the words "made of new material", if the bedding contains no previously used material; or the words "made of previously used materials", if the bedding contains any previously used material; or the word "secondhand" on any bedding which has been used but not remade.

(4) Repealed by Session Laws 1987, c. 456, s. 4.

(c) A white tag shall be used for manufactured bedding and a yellow tag for renovated or sanitized bedding.

(d) The tag must be sewed to the outside covering before the filling material has been inserted. No trade name, advertisement nor any other wording shall appear on the tag."

**SECTION 13.3.(q)** G.S. 106-65.100, as recodified under subsection (l) of this section, reads as rewritten:

"**§ 106-65.100. Altering tags prohibited.**

No person, other than one purchasing bedding for personal use or a representative of the Department of Agriculture and Consumer Services shall remove, deface or alter the tag required by this ~~Part.~~Article."

**SECTION 13.3.(r)** G.S. 106-65.101, as recodified under subsection (l) of this section, reads as rewritten:

"**§ 106-65.101. Selling regulated.**

(a) No person shall sell any bedding in this State (whether manufactured within or without this State) which has not been manufactured, tagged, and labeled in the manner required by this ~~Part~~ Article and which does not otherwise comply with the provisions of this ~~Part.~~Article.

(b) This ~~Part~~ Article shall not apply to bedding sold by the owner and previous user from the owner's home directly to a purchaser for the purchaser's own personal use unless the bedding has been exposed to an infectious or communicable disease.

(c) Possession of any bedding in any store, warehouse, itinerant vendor's conveyance or place of business, other than a private home, hotel or other place where these articles are ordinarily used, shall constitute prima facie evidence that the item is possessed with intent to sell. No secondhand bedding shall be possessed with intent to sell for a period exceeding 60 days unless it has been sanitized."

**SECTION 13.3.(s)** G.S. 106-65.102, as recodified under subsection (l) of this section, reads as rewritten:

"**§ 106-65.102. Registration numbers.**

(a) All persons manufacturing or sanitizing bedding in this State or manufacturing bedding to be sold in this State shall apply for a registration number on a form prescribed by the ~~Secretary.~~Commissioner of Agriculture. Upon receipt of the completed application and applicable fees, the Department of Agriculture and Consumer Services shall issue to the applicant a certificate of registration showing the person's name and address, registration number and other pertinent information required by the rules of the ~~Commission.~~Board of Agriculture."

**SECTION 13.3.(t)** G.S. 106-65.103, as recodified under subsection (l) of this section, reads as rewritten:

"**§ 106-65.103. Payment of fees; licenses.**

(c) The Department of Agriculture and Consumer Services shall administer and enforce this ~~Part.~~Article. A person who has done business in this State throughout the preceding calendar year shall obtain a license by paying a fee to the Department of Agriculture and Consumer Services in an amount determined by the total number of bedding units manufactured, sold, or sanitized in this State by the applicant during the calendar year immediately preceding, at the rate of five and two tenths cents (5.2¢) per bedding unit. However, if this amount is less than fifty dollars ($50.00), a minimum fee of fifty dollars ($50.00) shall be paid to the ~~Department.~~Department of Agriculture and Consumer Services.

(d) A person who has not done business in this State throughout the preceding calendar year shall obtain a license by paying an initial fee to the Department of Agriculture and Consumer Services in the amount of seven hundred twenty dollars ($720.00) for the first year in which business is done in this State, prorated in accordance with the quarter of the calendar year in which the person begins doing business. After submission of proof of business volume in accordance with subsection (h) of this section for the part of the preceding calendar year in which the person did business in this State, the Department of Agriculture and Consumer Services shall determine the amount of fee for which the person is responsible for that time period by using a rate of five and two tenths cents (5.2¢) for each bedding unit. However, if this amount is less than fifty dollars ($50.00), then the amount of the fee for which the person is responsible shall be fifty dollars ($50.00). If the person's initial payment is more than the amount of the fee for which the person is responsible, the Department of Agriculture and Consumer Services shall make a refund or adjustment to the cost of the fee due for the next year in the amount of the difference. If the initial payment is less than the amount of the fee for which the person is responsible, the person shall pay the difference to the ~~Department.~~Department of Agriculture and Consumer Services.

(d1) Payments, refunds, and adjustments shall be made in accordance with rules adopted by the ~~Commission.~~Board of Agriculture.

(d2) Upon payment of the fees charged pursuant to subsections (c) and (d), or the first installment thereof as provided by rules adopted by the ~~Commission,~~Board of Agriculture, the Department of Agriculture and Consumer Services shall issue a license to the person. Licenses shall be kept conspicuously posted in the place of business of the licensee at all times. The ~~Secretary~~ Commissioner of Agriculture may suspend a license for a maximum of six months for two or more serious violations of this ~~Part~~ Article or of the rules of the ~~Commission,~~Board of Agriculture within any 12-month period.

(e) A maximum fee of seven hundred fifty dollars ($750.00) shall be charged for units of bedding manufactured in this State but not sold in this State.

(f) For the sole purpose of computing fees for which a person is responsible, the following definitions shall apply: One mattress is defined as one bedding unit; one upholstered spring is defined as one bedding unit; one pad is defined as one bedding unit; one sleeping bag is defined as one bedding unit; five comforters, pillows or decorative pillows are defined as one bedding unit; and any other item is defined as one bedding unit.

(g) An application for license must be submitted on a form prescribed by the ~~Secretary.~~Commissioner of Agriculture. No license may be issued to a person unless the person complies with the rules of the ~~Commission~~ Board of Agriculture governing the granting of licenses.

(h) The ~~Commission~~ Board of Agriculture shall adopt rules for the proper enforcement of this section. The rules shall include provisions governing the type and amount of proof which must be submitted by the applicant to the Department of Agriculture and Consumer Services in order to establish the number of bedding units that were, during the preceding calendar year:

(1) Manufactured and sold in this State;

(2) Manufactured outside of this State and sold in this State; and

(3) Manufactured in this State but not sold in this State.

(i) The ~~Commission~~ Board of Agriculture may provide in its rules for additional proof of the number of bedding units sold during the preceding calendar year when it has reason to believe that the proof submitted by the manufacturer is incomplete, misleading or incorrect."

**SECTION 13.3.(u)** G.S. 106-65.104, as recodified under subsection (l) of this section, reads as rewritten:

"**§ 106-65.104. Bedding Law Account.**

The Bedding Law Account is established as a nonreverting account within the ~~Department.~~Department of Agriculture and Consumer Services. All fees collected under this ~~Part~~ Article shall be credited to the Account and applied to the following costs:

(1) Salaries and expenses of inspectors and other employees who enforce this ~~Part.~~Article.

(2) Expenses directly connected with the enforcement of this ~~Part,~~Article, including attorney's fees, which are expressly authorized to be incurred by the ~~Secretary~~ Commissioner of Agriculture without authority from any other source when in the ~~Secretary's opinion~~opinion of the Commissioner of Agriculture it is advisable to employ an attorney to prosecute any persons."

**SECTION 13.3.(v)** G.S. 106-65.105, as recodified under subsection (l) of this section, reads as rewritten:

"**§ 106-65.105. Enforcement by the ~~Department.~~Department of Agriculture and Consumer Services.**

(a) The Department of Agriculture and Consumer Services shall enforce the provisions of this ~~Part~~ Article and the rules adopted by the ~~Commission.~~Board of Agriculture.

(b) The ~~Secretary~~ Commissioner of Agriculture may prohibit sale and place an "off sale" tag on any bedding which is not made, sanitized, or tagged as required by this ~~Part~~ Article and the rules of the ~~Commission.~~Board of Agriculture. The bedding shall not be sold or otherwise removed until the violation is remedied and the ~~Secretary~~ Commissioner of Agriculture has reinspected it and removed the "off sale" tag.

(c) A person supplying material to a bedding manufacturer shall furnish an itemized invoice of all furnished material. Each material entering into willowed or other mixtures shall be shown on the invoice. The bedding manufacturer shall keep the invoice on file for one year subject to inspection by the ~~Department.~~Department of Agriculture and Consumer Services.

(d) When the ~~Secretary~~ Commissioner of Agriculture has reason to believe that bedding is not tagged or filled as required by this ~~Part,~~Article, the ~~Secretary~~ Commissioner of Agriculture shall have authority to open a seam of the bedding to examine the filling, and, if unable after this examination to determine if the filling is of the kind stated on the tag, shall have the authority to examine purchase or other records necessary to determine definitely the kind of material used in the bedding. The ~~Secretary~~ Commissioner of Agriculture shall have authority to seize and hold for evidence any records and any bedding or bedding material which in the ~~Secretary's opinion~~opinion of the Commissioner of Agriculture is made, possessed or offered for sale in violation of this ~~Part~~ Article or the rules of the ~~Commission.~~Board of

Agriculture. The ~~Secretary~~ Commissioner of Agriculture shall have authority to take a sample of any bedding or bedding material for the purpose of examination or for evidence."

**SECTION 13.3.(w)** G.S. 106-65.106, as recodified under subsection (l) of this section, reads as rewritten:

"**§ 106-65.106. Exemptions for blind persons and State institutions.**

(a) In cases where bedding is manufactured, sanitized or renovated in a plant or place of business which has qualified as a nonprofit agency for the blind or severely handicapped under P.L. 92-28, as amended, the responsible person shall satisfy the provisions of this ~~Part~~ Article and the rules of the ~~Commission.~~Board of Agriculture. However, the responsible persons at these plants or places of business shall not be required to pay fees in accordance with ~~G.S. 130A-269.~~G.S. 106-65.103.

(b) State institutions engaged in the manufacture, renovation or sanitizing of bedding for their own use or that of another State institution are exempted from all provisions of this ~~Part.~~Article."

**SECTION 13.3.(x)** G.S. 106-65.107, as recodified under subsection (l) of this section, reads as rewritten:

"**§ 106-65.107. Rules.**

The ~~Commission~~ Board shall adopt rules required by this ~~Part~~ Article in order to protect the public health."

**SECTION 13.3.(y)** G.S. 90A-51 reads as rewritten:

"**§ 90A-51. Definitions.**

The words and phrases defined below shall when used in this Article have the following meaning unless the context clearly indicates otherwise:

...

(2a) "Environmental health practice" means the provision of environmental health services, including administration, organization, management, education, enforcement, and consultation regarding environmental health services provided to or for the public. These services are offered to prevent environmental hazards and promote and protect the health of the public in the following areas: food, lodging, and institutional sanitation; on-site wastewater treatment and disposal; ~~milk and dairy sanitation; shellfish sanitation; recreational water quality;~~ public swimming pool sanitation; childhood lead poisoning prevention; well permitting and inspection; tattoo parlor sanitation; and all other areas of environmental health requiring the delegation of authority by the Division of ~~Environmental~~ Public Health of the Department of Health and Human Services to State and local environmental health professionals to enforce rules adopted by the Commission for Public ~~Health or the Environmental Management Commission.~~Health. The definition also includes local environmental health professionals enforcing rules of local boards of health for on-site wastewater systems and wells.

...."

**SECTION 13.3.(z)** G.S. 90A-55(a) reads as rewritten:

"(a) Board Membership. – The Board shall consist of 12 members who shall serve staggered terms: the Secretary of ~~Environment and Natural Resources,~~Health and Human Services, or the Secretary's duly authorized representative, one public-spirited citizen, one environmental sanitation educator from an accredited college or university, one local health director, a representative of the Division of ~~Environmental~~ Public Health of the Department of ~~Environment and Natural Resources,~~Health and Human Services, and seven practicing environmental health specialists who qualify by education and experience for registration under this Article, six of whom shall represent the Western, Piedmont, and Eastern Regions of the State as described more specifically in the rules adopted by the Board."

**SECTION 13.3.(aa)** G.S. 90A-55(c) reads as rewritten:

"(c) The Environmental Health Section of the North Carolina Public Health Association, Inc., shall submit a recommended list of Board member candidates to the Governor for the Governor's consideration in appointments, except for the two representatives of the Department of ~~Environment and Natural Resources~~Health and Human Services recommended by the Secretary of ~~Environment and Natural Resources~~Health and Human Services and the local health director recommended by the North Carolina Local Health Directors Association."

**SECTION 13.3.(bb)** G.S. 90A-71(4) reads as rewritten:

"(4) "Department" means the Department of ~~Environment and Natural Resources.~~Health and Human Services."

**SECTION 13.3.(cc)** G.S. 90A-73(a)(3) reads as rewritten:

"(3) One member appointed by the Governor who is ~~an employee of the Division of Environmental Health of the Department~~a registered professional engineer licensed under Chapter 89C of the General Statutes and whose work experience includes the design of on-site wastewater systems to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three."

**SECTION 13.3.(dd)** G.S. 90A-81(b) reads as rewritten:

"(b) Arbitration. – The Board may establish a voluntary arbitration procedure to resolve complaints concerning a certified contractor or inspector or any work performed by a certified contractor or inspector, or conflicts involving any certified contractor or inspector and the Division of ~~Environmental~~ Public Health of the Department or a local health department."

**SECTION 13.3.(ee)** G.S. 106-307.2(b) reads as rewritten:

"(b) The State Veterinarian shall notify the State Health Director and the Director of the Division of ~~Environmental~~ Public Health in the Department of ~~Environment and Natural Resources~~Health and Human Services when the State Veterinarian receives a report indicating an occurrence or potential outbreak of anthrax, arboviral infections, brucellosis, epidemic typhus, hantavirus infections, murine typhus, plague, psittacosis, Q fever, hemorrhagic fever, virus infections, and any other disease or condition transmissible to humans that the State Veterinarian determines may have been caused by a terrorist act."

**SECTION 13.3.(ff)** G.S. 130A-4(c) reads as rewritten:

"(c) The Secretary of Environment and Natural Resources shall administer and enforce the provisions of ~~Part 4 of Article 5 and Articles 8, 9, 10, 11, and 12~~Articles 9 and 10 of this Chapter and the rules of the Commission."

**SECTION 13.3.(gg)** G.S. 130A-12 reads as rewritten:

"**§ 130A-12. Confidentiality of records.**

All records containing privileged patient medical information, information protected under 45 Code of Federal Regulations Parts 160 and 164, and information collected under the authority of Part 4 of Article 5 of this Chapter that are in the possession of the Department of Health and Human ~~Services, the Department of Environment and Natural Resources,~~Services or local health departments shall be confidential and shall not be public records pursuant to G.S. 132-1. Information contained in the records may be disclosed only when disclosure is authorized or required by State or federal law. Notwithstanding G.S. 8-53 or G.S. 130A-143, the information contained in the records may be disclosed for purposes of treatment, payment, or health care operations. For purposes of this section, the terms "treatment," "payment," and "health care operations" have the meanings given those terms in 45 Code of Federal Regulations § 164.501."

**SECTION 13.3.(hh)** G.S. 130A-17(b) reads as rewritten:

"(b) The Secretary of Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of ~~Part 4 of Article 5 and Articles 8, 9, 10, 11, and 12~~Articles 9 and 10 of this Chapter."

**SECTION 13.3.(ii)** G.S. 130A-18(b) reads as rewritten:

"(b) The Secretary of Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of ~~Part 4 of Article 5 and Articles 8, 9, 10, 11, and 12~~Articles 9 and 10 of this Chapter."

**SECTION 13.3.(jj)** G.S. 130A-19(b) reads as rewritten:

"(b) The Secretary of Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of ~~Part 4 of Article 5 and Articles 8, 9, 10, 11, and 12~~Articles 9 and 10 of this Chapter."

**SECTION 13.3.(kk)** G.S. 130A-20(b) reads as rewritten:

"(b) The Secretary of Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of ~~Part 4 of Article 5 and Articles 8, 9, 10, 11, and 12~~Articles 9 and 10 of this Chapter."

**SECTION 13.3.(ll)** G.S. 130A-21(a) reads as rewritten:

"(a) In addition to the authority of the Department of Agriculture and Consumer Services pursuant to G.S. 106-125, the Secretary ~~of Environment and Natural Resources~~ or a local health

director has authority to exercise embargo authority concerning food or drink pursuant to G.S. 106-125(a), (b) and (c) when the food or drink is in an establishment that is subject to regulation by the Department of ~~Environment and Natural Resources~~Health and Human Services pursuant to this Chapter, that is subject to rules adopted by the Commission, or that is the subject of an investigation pursuant to G.S. 130A-144; however, no such action shall be taken in any establishment or part of an establishment that is under inspection or otherwise regulated by the Department of Agriculture and Consumer Services or the United States Department of Agriculture other than the part of the establishment that is subject to regulation by the Department of ~~Environment and Natural Resources~~Health and Human Services pursuant to this Chapter. Any action under this section shall only be taken by, or after consultation with, Department of ~~Environment and Natural Resources~~Health and Human Services regional environmental health specialists, or the Director of the Division of ~~Environmental~~ Public Health or the Director's designee, in programs regulating food and drink pursuant to this Chapter or in programs regulating food and drink that are subject to rules adopted by the Commission. Authority under this section shall not be delegated to individual environmental health specialists in local health departments otherwise authorized and carrying out laws and rules pursuant to G.S. 130A-4. When any action is taken pursuant to this section, the Department of ~~Environment and Natural Resources~~Health and Human Services or the local health director shall immediately notify the Department of Agriculture and Consumer Services. For the purposes of this subsection, all duties and procedures in G.S. 106-125 shall be carried out by the Secretary of ~~the Department of Environment and Natural Resources~~Health and Human Services or the local health director and shall not be required to be carried out by the Department of Agriculture and Consumer Services. It shall be unlawful for any person to remove or dispose of the food or drink by sale or otherwise without the permission of a Department of ~~Environment and Natural Resources~~Health and Human Services regional environmental health specialist, the Director of the Division of ~~Environmental~~ Public Health or the Director's designee, the local health director, or a duly authorized agent of the Department of Agriculture and Consumer Services, or by the court in accordance with the provisions of G.S. 106-125."

**SECTION 13.3.(mm)** G.S. 130A-21(d) reads as rewritten:

"(d) Nothing in this section is intended to limit the embargo authority of the Department of Agriculture and Consumer Services. The Department of ~~Environment and Natural Resources~~Health and Human Services and the Department of Agriculture and Consumer Services are authorized to enter agreements respecting the duties and responsibilities of each agency in the exercise of their embargo authority."

**SECTION 13.3.(nn)** G.S. 130A-22(c) reads as rewritten:

"(c) The Secretary ~~of Environment and Natural Resources~~ may impose an administrative penalty on a person who willfully violates Article 11 of this Chapter, rules adopted by the Commission pursuant to Article 11 or any condition imposed upon a permit issued under Article 11. An administrative penalty may not be imposed upon a person who establishes that neither the site nor the system may be improved or a new system installed so as to comply with Article 11 of this Chapter. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifty dollars ($50.00) per day in the case of a wastewater collection, treatment and disposal system with a design daily flow of no more than 480 gallons or in the case of any system serving a single one-family dwelling. The penalty shall not exceed three hundred dollars ($300.00) per day in the case of a wastewater collection, treatment and disposal system with a design daily flow of more than 480 gallons which does not serve a single one-family dwelling."

**SECTION 13.3.(oo)** G.S. 130A-23(e) reads as rewritten:

"(e) The Secretary of Environment and Natural Resources shall have all of the applicable rights enumerated in this section to enforce the provisions of ~~Articles 8, 9, 10, 11, and 12~~Articles 9 and 10 of this Chapter."

**SECTION 13.3.(pp)** G.S. 130A-34.1(a) reads as rewritten:

"(a) The Local Health Department Accreditation Board is established within the North Carolina Institute for Public Health. The Board shall be composed of 17 members appointed by the Secretary of the Department of Health and Human Services as follows:

(1) Four shall be county commissioners recommended by the North Carolina Association of County Commissioners, and four shall be members of a local

board of health as recommended by the Association of North Carolina Boards of Health.

(2) Three local health directors.

(3) ~~Two~~ Three staff members from the Division of Public Health, Department of Health and Human Services.

~~(4) One staff member from the Division of Environmental Health, recommended by the Secretary of Environment and Natural Resources.~~

(5) Three at large."

**SECTION 13.3.(qq)** G.S. 130A-227(b) reads as rewritten:

"(b) The following definitions shall apply throughout this Article:

(1) "Department" means the Department of ~~Environment and Natural Resources.~~Health and Human Services.

(2) "Secretary" means the Secretary of ~~Environment and Natural Resources.~~Health and Human Services."

**SECTION 13.3.(rr)** G.S. 130A-21(b) reads as rewritten:

"(b) If the Secretary ~~of Environment and Natural Resources~~ or a local health director has probable cause to believe that any milk designated as Grade "A" milk is misbranded or does not satisfy the milk sanitation rules adopted pursuant to G.S. 130A-275, the Secretary ~~of Environment and Natural Resources~~ or a local health director may detain or embargo the milk by affixing a tag to it and warning all persons not to remove or dispose of the milk until permission for removal or disposal is given by the official by whom the milk was detained or embargoed or by the court. It shall be unlawful for any person to remove or dispose of the detained or embargoed milk without that permission."

**SECTION 13.3.(ss)** G.S. 130A-334(1a) reads as rewritten:

"(1a) "Department" means the Department of ~~Environment and Natural Resources.~~Health and Human Services."

**SECTION 13.3.(tt)** G.S. 104E-5 reads as rewritten:

**"§ 104E-5. Definitions.**

Unless a different meaning is required by the context, the following terms as used in this Chapter shall have the meanings hereinafter respectively ascribed to them:

...

(6) "Department" means the ~~State Department of Environment and Natural Resources.~~Department of Health and Human Services.

...."

**SECTION 13.3.(uu)** G.S. 104E-8(c) reads as rewritten:

"(c) The 10 ex officio members shall be appointed by the Governor, shall be members or employees of the following State agencies or their successors, and shall serve at the Governor's pleasure:

...

(6) The Division of ~~Environmental~~ Health Safety Regulation of the Department.

...."

**SECTION 13.3.(vv)** G.S. 104E-9 reads as rewritten:

**"§ 104E-9. Powers and functions of Department of ~~Environment and Natural Resources.~~ Health and Human Services.**

(a) The Department of ~~Environment and Natural Resources~~Health and Human Services is authorized:

...

(b) The Division of ~~Environmental~~ Health Safety Regulation of the Department shall develop a training program for tanning equipment operators that meets the training rules adopted by the Commission. If the training program is provided by the Department, the Department may charge each person trained a reasonable fee to recover the actual cost of the training program."

**SECTION 13.3.(ww)** G.S. 120-70.33(3) reads as rewritten:

**"§ 120-70.33. Powers and duties.**

The Joint Select Committee shall have the following powers and duties:

...

(3) To evaluate actions of the Radiation Protection Commission, the radiation protection programs administered by the Division of ~~Environmental~~ Health Safety Regulation of the Department of ~~Environment and Natural~~

~~Resources,~~Health and Human Services, and of any other board, commission, department, or agency of the State or local government as such actions relate to low-level radioactive waste management;

...."

**SECTION 13.3.(xx)** G.S. 159G-20 reads as rewritten:

"**§ 159G-20. Definitions.**

The following definitions apply in this Chapter:

...

~~(4) Division of Environmental Health. – The Division of Environmental Health of the Department of Environment and Natural Resources.~~

(5) Division of Water Quality. – The Division of Water Quality of the Department of Environment and Natural Resources.

(5a) Division of Water Resources. – The Division of Water Resources of the Department of Environment and Natural Resources.

...."

**SECTION 13.3.(yy)** G.S. 159G-23 reads as rewritten:

"**§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking Water Reserve.**

The criteria in this section apply to a loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The Division of Water Quality and the Division of ~~Environmental Health~~Water Resources must each establish a system of assigning points to applications based on the following criteria:

...."

**SECTION 13.3.(zz)** G.S. 159G-26(a) reads as rewritten:

"(a) Requirement. – The Department must publish a report each year on the accounts in the Water Infrastructure Fund that are administered by the Division of Water Quality or the Division of ~~Environmental Health.~~Water Resources. The report must be published by 1 November of each year and cover the preceding fiscal year. The Department must make the report available to the public and must give a copy of the report to the Environmental Review Commission and the Fiscal Research Division of the General Assembly."

**SECTION 13.3.(aaa)** G.S. 159G-30 reads as rewritten:

"**§ 159G-30. Department's responsibility.**

The Department, through the Division of Water Quality and the Division of ~~Environmental Health,~~Water Resources, administers loans and grants made from the CWSRF, the DWSRF, the Wastewater Reserve, and the Drinking Water Reserve. The Division of Water Quality administers loans and grants from the CWSRF and the Wastewater Reserve. The Division of ~~Environmental Health~~Water Resources administers loans and grants from the DWSRF and the Drinking Water Reserve."

**SECTION 13.3.(bbb)** G.S. 159G-37 reads as rewritten:

"**§ 159G-37. Application to CWSRF, Wastewater Reserve, DWSRF, and Drinking Water Reserve.**

An application for a loan or grant from the CWSRF or the Wastewater Reserve must be filed with the Division of Water Quality of the Department. An application for a loan or grant from the DWSRF or the Drinking Water Reserve must be filed with the Division of ~~Environmental Health~~Water Resources of the Department. An application must be submitted on a form prescribed by the Division and must contain the information required by the Division. An applicant must submit to the Division any additional information requested by the Division to enable the Division to make a determination on the application. An application that does not contain information required on the application or requested by the Division is incomplete and is not eligible for consideration. An applicant may submit an application in as many categories as it is eligible for consideration under this Article."

**SECTION 13.3.(ccc)** G.S. 159G-38(b) reads as rewritten:

"(b) Division Review. – If, after reviewing an application, the Division of Water Quality or the Division of ~~Environmental Health,~~Water Resources, as appropriate, determines that a project requires an environmental assessment, the assessment must be submitted before the Division continues its review of the application. If, after reviewing an environmental assessment, the Division concludes that an environmental impact statement is required, the Division may not continue its review of the application until a final environmental impact

statement has been completed and approved as provided in the North Carolina Environmental Policy Act."

**SECTION 13.3.(ddd)** G.S. 159G-38(c) reads as rewritten:

"(c) Hearing. – The Division of Water Quality or the Division of ~~Environmental Health,~~Water Resources, as appropriate, may hold a public hearing on an application for a loan or grant under this Article if it determines that holding a hearing will serve the public interest. An individual who is a resident of any county in which a proposed project is located may submit a written request for a public hearing. The request must set forth each objection to the proposed project or other reason for requesting a hearing and must include the name and address of the individual making the request. The Division may consider all written objections to the proposed project, any statement submitted with the hearing request, and any significant adverse effects the proposed project may have on the environment. The Division's decision on whether to hold a hearing is conclusive. The Division must keep all written requests for a hearing on an application as part of the records pertaining to the application."

**SECTION 13.3.(eee)** G.S. 159G-39(a) reads as rewritten:

"(a) Point Assignment. – The Division of Water Quality or the Division of ~~Environmental Health,~~Water Resources, as appropriate, must review all applications filed for a loan or grant under this Article for an application period. The Division must rank each application in accordance with the points assigned to the evaluation criteria. The Division must make a written determination of an application's rank and attach the determination to the application. The Division's determination of rank is conclusive."

**SECTION 13.3.(fff)** G.S. 166A-6.1(b) reads as rewritten:

"(b) Every person, firm, corporation or municipality who is licensed to construct or who is operating a fixed nuclear facility for the production of electricity shall pay to the Department of Crime Control and Public Safety, for the use of the ~~Division of Environmental Health of the Department of Environment and Natural Resources,~~Radiation Protection Section of the Division of Public Health of the Department of Health and Human Services, an annual fee of thirty-six thousand dollars ($36,000) for each fixed nuclear facility that is located within this State or that has a Plume Exposure Pathway Emergency Planning Zone any part of which is located within this State. This fee shall be applied only to the costs of planning and implementing emergency response activities as required by the Federal Emergency Management Agency for the operation of nuclear facilities. This fee is to be paid no later than July 31 of each year."

**SECTION 13.3.(ggg)** Part 3 of Article 8 of Chapter 130A of the General Statutes is repealed, except G.S. 130A-230 is recodified as G.S. 113-221.2 in Article 17 of Chapter 113 of the General Statutes.

**SECTION 13.3.(hhh)** G.S. 113-221.2, as recodified in subsection (ggg) of this section, reads as rewritten:

"**§ 113-221.2. ~~Commission to adopt rules; enforcement of rules.~~Additional rules to establish sanitation requirements for scallops, shellfish, and crustacea.**

For the protection of the public health, the Marine Fisheries Commission shall adopt rules establishing sanitation requirements for the harvesting, processing and handling of scallops, ~~shellfish~~ shellfish, and crustacea of in-State origin. The rules of the Marine Fisheries Commission may also regulate scallops, ~~shellfish~~ shellfish, and crustacea shipped into North Carolina. The Department is authorized to enforce the rules and may issue and revoke permits according to the rules."

**SECTION 13.3.(iii)** Part 3A of Article 8 of Chapter 130A of the General Statutes is repealed, except G.S. 130A-233.1 is recodified as G.S. 113-221.3 in Article 17 of Chapter 113 of the General Statutes.

**SECTION 13.3.(jjj)** G.S. 113-221.3, as recodified in subsection (iii) of this section, reads as rewritten:

"**§ 113-221.3. Monitoring program for State coastal fishing and recreation waters; ~~development and implementation of program.~~removal or destruction of warning signs.**

(a) For the protection of the public health of swimmers and others who use the State's coastal fishing waters for recreational activities, the Department shall develop and implement a program to monitor the State's coastal fishing waters for contaminants. The monitoring program shall cover all coastal fishing waters up to the point where those waters are classified as inland fishing waters.

(b) The Marine Fisheries Commission shall adopt rules to provide for a water quality monitoring program for the coastal recreation waters of the State and to allow the Department to implement the federal Beaches Environmental Assessment and Coastal Health Act of 2000 (Pub. L. No. 106-284; 114 Stat. 870, 875; 33 U.S.C. §§ 1313, 1362). The rules shall address, but are not limited to, definitions, surveys, sampling, action standards, and posting of information on the water quality of coastal recreation waters.

(c) No person shall remove, destroy, damage, deface, mutilate, or otherwise interfere with any sign posted by the Department pursuant to subsection (b) of this section. No person, without just cause or excuse, shall have in his or her possession any sign posted by the Department pursuant to subsection (b) of this section. Any person who violates this section is guilty of a Class 2 misdemeanor.

(d) As used in this section, coastal recreation waters has the same meaning as in 33 U.S.C. § 1362."

**SECTION 13.3.(kkk)** G.S. 130A-21(c) is recodified as a new section G.S. 113-221.4 in Article 17 of Chapter 113 of the General Statutes to be entitled "Embargo."

**SECTION 13.3.(lll)** G.S. 113-221.4, as recodified in subsection (kkk) of this section, reads as rewritten:

"**§ 113-221.4. Embargo.**

(a) If the Secretary of Environment and Natural Resources or a local health director has probable cause to believe that any scallops, ~~shellfish~~ shellfish, or crustacea is adulterated or misbranded, the Secretary of Environment and Natural Resources or a local health director may detain or embargo the article by affixing a tag to it and warning all persons not to remove or dispose of the article until permission for removal or disposal is given by the official by whom it was detained or embargoed or by the court. It shall be unlawful for any person to remove or dispose of the detained or embargoed article without that permission.

(b) The official by whom the scallops, ~~shellfish~~ shellfish, or crustacea was detained or embargoed shall petition a judge of the district or superior court in whose jurisdiction the article is detained or embargoed for an order for condemnation of the article. If the court finds that the article is adulterated or misbranded, that article shall be destroyed under the supervision of the petitioner. All court costs and fees, storage and other expense shall be taxed against the claimant of the article. If, the article, by proper labelling can be properly branded, the court, after the payment of all costs, fees, expenses, and an adequate bond, may order that the article be delivered to the claimant for proper labelling under the supervision of the petitioner. The bond shall be returned to the claimant after the petitioner represents to the court that the article is no longer mislabelled and that the expenses of supervision have been paid."

**SECTION 13.3.(mmm)** The Revisor of Statutes shall make the conforming statutory changes necessary to reflect the transfers under this section. The Revisor of Statutes may correct any reference in the General Statutes to the statutes that are recodified by this section and make any other conforming changes necessitated by this section.

**SECTION 13.3.(nnn)** The transfers under this section become effective July 1, 2011, and funds transferred shall be net of any changes enacted by this section. Any references in this act to any program, office, section, division, or department that is transferred under this section shall be construed to be consistent with the transfer under this section.

**REQUIRE DENR TO USE DWQ'S GROUNDWATER INVESTIGATION UNIT'S WELL DRILLING SERVICES IN OTHER DENR DIVISIONS**

**SECTION 13.4.(a)** The purposes of this section are (i) to assure that the Groundwater Investigation Unit well drilling staff are fully utilized by establishing a procedure whereby the Groundwater Investigation Unit may bid to contract to provide well drilling services to other divisions of the Department of Environment and Natural Resources and by providing funding support by these divisions for the Unit's costs and travel expenses and (ii) to reduce the need for the Department of Environment and Natural Resources to enter into contracts with private well drilling companies.

**SECTION 13.4.(b)** During the 2011-2012 fiscal year and the 2012-2013 fiscal year, the Groundwater Investigation Unit of the Division of Water Quality of the Department of Environment and Natural Resources shall bid to contract to perform well drilling services for any division within the Department of Environment and Natural Resources that needs to have wells drilled to monitor groundwater, as part of remediating a contaminated site, or as part of any other division or program responsibility, except for a particular instance when this would

be impracticable. The provisions of Article 3 of Chapter 143 of the General Statutes apply to any contract entered into under this section.

**SECTION 13.4.(c)** The terms of any contract entered into under this section may include a provision whereby the division within the Department of Environment and Natural Resources that contracts for the well drilling services of the Groundwater Investigation Unit may use available receipts for the 2011-2012 fiscal year and for the 2012-2013 fiscal year, as applicable, for the costs of the Groundwater Investigation Unit well drilling staff that are incurred to perform the well drilling services under the contract.

**DENR CIVIL PENALTY ASSESSMENTS**

**SECTION 13.6.** Part 1 of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-279.16. Civil penalty assessments.**

(a) The purpose of this section is to provide to the person receiving a notice of violation of an environmental statute or an environmental rule a greater opportunity to understand what corrective action is needed, receive technical assistance from the Department of Environment and Natural Resources, and to take the needed corrective action. It is also the purpose of this section to provide to the person receiving the notice of violation a greater opportunity for informally resolving matters involving any such violation.

(b) In order to fulfill the purpose set forth in subsection (a) of this section, the Department of Environment and Natural Resources shall, effective July 1, 2011, extend the period of time by 10 days between the time the violator is sent a notice of violation of an environmental statute or an environmental rule and the subsequent date the violator is sent an assessment of the civil penalty for the violation."

**WATER AND AIR QUALITY ACCOUNT REVERTS**

**SECTION 13.7.** G.S. 143-215.3A(a) reads as rewritten:

"(a) The Water and Air Quality Account is established as ~~a nonrevertingan~~ account within the Department. Revenue in the Account shall be applied to the costs of administering the programs for which the fees were collected. Revenue credited to the Account pursuant to G.S. 105-449.43, G.S. 105-449.125, and G.S. 105-449.136 shall be used to administer the air quality program. Any funds credited to the Account from fees collected for laboratory facility certifications under G.S. 143-215.3(a)(10) that are not expended at the end of each fiscal year for the purposes for which these fees may be used under G.S. 143-215.3(a)(10) shall revert. Any other funds credited to the Account that are not expended at the end of each fiscal year shall not revert. Except for the following fees, all application fees and permit administration fees collected by the State for permits issued under Articles 21, 21A, 21B, and 38 of this Chapter shall be credited to the Account:

(1) Fees collected under Part 2 of Article 21A and credited to the Oil or Other Hazardous Substances Pollution Protection Fund.
(2) Fees credited to the Title V Account.
(3) Repealed by Session Laws 2005-454, s. 7, effective January 1, 2006.
(4) Fees collected under G.S. 143-215.28A.
(5) Fees collected under G.S. 143-215.94C shall be credited to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund."

**CHANGE EFFECTIVE DATE REGARDING WELL TESTING**

**SECTION 13.10.** Section 4 of S.L. 2009-124 reads as rewritten:

"**SECTION 4.** Section 1 of this act becomes effective October 1, ~~2010.~~2012. The remainder of the act is effective when it becomes law."

**FUNDS FOR CLEANUP AND MONITORING OF TEXFI SITE CONTAMINATION**

**SECTION 13.10A.** Reduce the operating expenditures of the Solid Waste Management Trust Fund by the sum of fifty thousand dollars ($50,000) for the 2011-2012 fiscal year and provide funding in the sum of fifty thousand dollars ($50,000) to be used for the 2011-2012 fiscal year for the cleanup and monitoring of the groundwater and other contamination located at the Texfi site in Fayetteville and for any emergency cleanup activities needed at that site.

**FUNDS FOR RECYCLING PROGRAMS FOR PRODUCTS THAT CONTAIN MERCURY**

**SECTION 13.10B.(a)** Effective July 1, 2011, until December 31, 2017, G.S. 130A-310.54 reads as rewritten:

"**§ 130A-310.54. Mercury ~~Switch Removal Account.~~Pollution Prevention Fund.**

(a) The Mercury ~~Switch Removal Account~~Pollution Prevention Fund is established in the Department. Revenue is credited to the ~~Account~~ Fund from the certificate of title fee under G.S. 20-85.

(b) Revenue in the Mercury ~~Switch Removal Account~~Pollution Prevention Fund shall be used ~~to~~ for the following purposes:

(1) To reimburse the Department and others for costs incurred in implementing the mercury switch removal program.

(2) To establish and implement recycling programs for products containing mercury, including at least recycling programs for light bulbs and thermostats.

(b1) The reimbursable costs under subdivision (1) of subsection (b) of this section are:

(1) Five dollars ($5.00) for each mercury switch removed by a vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility pursuant to this Article and sent to destination facilities in accordance with the NVMSRP for recycling or disposal.

(2) Costs incurred by the Department in administering the program.

(c) The Department shall reimburse vehicle crushers, vehicle dismantlers, vehicle recyclers, and scrap vehicle processing facilities based on a reimbursement request that attests to the number of switches sent to destination facilities for recycling or disposal in accordance with the NVMSRP. Each reimbursement request shall be verified against information posted on the Internet site provided by the vehicle manufacturers in accordance with the NVMSRP, or against other information that verifies the reimbursement requested to the satisfaction of the Department. The vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility shall provide the Department with any information requested by the Department to verify the accuracy of a reimbursement request. Each vehicle crusher, vehicle dismantler, vehicle recycler, or scrap vehicle processing facility shall maintain accurate records that support each reimbursement request for a minimum of three years from the date the reimbursement request is approved."

**SECTION 13.10B.(b)** Effective December 31, 2017, G.S. 130A-310.54, as amended by Sections 4 and 9 of S.L. 2007-142, reads as rewritten:

"**§ 130A-310.54. Funds to implement plan.**

(a) The Mercury Pollution Prevention ~~Account~~ Fund is established in the Department. Revenue is credited to the ~~Account~~ Fund from the certificate of title fee under G.S. 20-85.

(b) Revenue in the Mercury Pollution Prevention ~~Account~~ Fund shall be used ~~to~~ for the following purposes:

(1) To reimburse the Department and others for costs incurred in implementing the mercury minimization plan.

(2) To establish and implement recycling programs for products containing mercury, including at least recycling programs for light bulbs and thermostats.

(b1) The reimbursable costs under subdivision (1) of subsection (b) of this section are:

(1) Five dollars ($5.00) for each mercury switch removed by a vehicle recycler or scrap metal recycling facility pursuant to this Article.

(2) Costs incurred by the Department in administering the plan.

(c) The Department shall reimburse vehicle recyclers and scrap metal recycling facilities based on the quarterly reports submitted under G.S. 130A-310.53. The Department may request any information needed to determine the accuracy of the reports."

**FUNDS FOR DENR STUDY OF ONSHORE SHALE GAS RESOURCES IN NC**

**SECTION 13.10D.** Notwithstanding any other provision of this act, if Senate Bill 709, 2011 Regular Session becomes law, the Department of Environment and Natural Resources shall, notwithstanding the provisions of G.S. 130A-310.54, use one hundred thousand dollars ($100,000) from the Mercury Switch Removal Account for the 2011-2012

fiscal year to study the issue of onshore shale gas resources in the State as provided in Senate Bill 709.

**REPEAL DENR REVIEW OF FEE SCHEDULES**

**SECTION 13.11.** G.S. 143B-279.2(4) is repealed.

**DWSRF LOANS AND GRANTS TO INVESTOR-OWNED DRINKING WATER CORPORATIONS**

**SECTION 13.11A.(a)** G.S. 159G-20 reads as rewritten:

"**§ 159G-20. Definitions.**

The following definitions apply in this Chapter:

...

(10a) Investor-owned drinking water corporation. – A corporation owned by investors and incorporated solely for the purpose of providing drinking water services for profit.

...."

**SECTION 13.11A.(b)** G.S. 159G-31 reads as rewritten:

"**§ 159G-31. Entities eligible to apply for loan or grant.**

A local government unit or a nonprofit water corporation is eligible to apply for a loan or grant from the CWSRF, the DWSRF, the Wastewater Reserve, or the Drinking Water Reserve. An investor-owned drinking water corporation is also eligible to apply for a loan or grant from the DWSRF. Other entities are not eligible for a loan or grant from these accounts."

**SECTION 13.11A.(c)** G.S. 159G-40 reads as rewritten:

"**§ 159G-40. Terms of loan and execution of loan documents.**

(a) Approval by Local Government Commission. – The Department may not award a loan under this Article unless the Local Government Commission approves the award of the loan and the terms of the loan. The terms of a loan awarded from the CWSRF and the DWSRF must be consistent with federal law. In reviewing a proposed loan to a local government unit, the Local Government Commission must consider the loan as if it were a bond proposal and review the proposed loan in accordance with the factors set out in G.S. 159-52 for review of a proposed bond issue. The Local Government Commission must review a proposed loan to a nonprofit water corporation and to an investor-owned drinking water corporation in accordance with the factors set out in G.S. 159-153.

...

(d) Debt Instrument. – A local government ~~unit and~~unit, a nonprofit water ~~corporation~~ corporation, and an investor-owned drinking water corporation may execute a debt instrument payable to the State to evidence an obligation to repay the principal of and interest on a loan awarded under this Article. The Treasurer, with the assistance of the Local Government Commission, must develop debt instruments for use by local government ~~units and~~units, nonprofit water ~~corporations~~ corporations, and investor-owned drinking water corporations under this section. The Local Government Commission must develop procedures for loan recipients to deliver debt instruments to the State without public bidding."

**SECTION 13.11A.(d)** G.S. 159G-43(b) reads as rewritten:

"(b) Disqualification. – An individual may not perform an inspection of a project under this section if the individual meets any of the following criteria:

(1) Is an officer or employee of the local government ~~unit or~~unit, nonprofit water ~~corporation~~ corporation, or investor-owned drinking water corporation that received the loan or grant award for the project.

(2) Is an owner, officer, employee, or agent of a contractor or subcontractor engaged in the construction of the project for which the loan or grant was made."

**SECTION 13.11A.(e)** G.S. 159-153 is amended by adding a new subsection to read:

"(a2) Investor-Owned Drinking Water Corporation. – A loan from the DWSRF, an account within the Water Infrastructure Fund, to an investor-owned drinking water corporation, as defined in G.S. 159G-20, is subject to approval by the Commission under this section."

**REGULATORY REFORM FOR DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF LABOR, AND DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**SECTION 13.11B.(a)** Article 1 of Chapter 95 of the General Statutes is amended by adding a new section to read:

"**§ 95-14.2. Limitation on rule-making authority.**

(a) Federal Analog. – The Department may not adopt a rule that imposes a more restrictive standard or limitation than those imposed by federal law or rule if a federal law or rule pertaining to the same subject matter has been adopted, unless adoption of the rule is permitted by this subsection. It is the intent of the General Assembly that the standards and limitations adopted by the Department shall be no more restrictive than the most nearly applicable federal standards and limitations. Adoption of a rule with more restrictive standards or limitations is permitted to respond to at least one of the following:

(1) A serious and unforeseen threat to the public health, safety, or welfare.

(2) An act of the General Assembly or United States Congress that expressly requires the Department to adopt rules.

(3) A change in federal or State budgetary policy.

(4) A federal regulation required by an act of the United States Congress to be adopted or administered by the State.

(5) A court order.

(b) No Federal Analog. – Before the Department publishes in the North Carolina Register the proposed text of a permanent rule change with no federal analog, the Department shall prepare and submit into the record of the rule making an evaluation of costs and benefits. The evaluation shall include estimates of the economic and social costs of compliance with the proposed rule to commerce and industry, units of local government, and any other entities affected by the rule, as well as estimates of the benefits of the proposed rule to public health, safety, and welfare and to the environment. The evaluation shall present relevant data, assumptions, analyses, and calculations in sufficient detail to allow the calculation of a ratio of quantifiable costs to quantifiable benefits for the proposed rule. Benefits and costs which cannot be quantified may be expressed in qualitative terms. For purposes of this subsection "no federal analog" means that there is no federal regulation, standard, or requirement pertaining to the same subject matter or activity. This subsection does not apply to a rule required by an act of the General Assembly or the United States Congress that expressly requires the Department to adopt rules."

**SECTION 13.11B.(b)** Part 3 of Article 1 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-22.6. Limitation on rule-making authority.**

(a) Federal Analog. – The Department may not adopt a rule that imposes a more restrictive standard or limitation than those imposed by federal law or rule if a federal law or rule pertaining to the same subject matter has been adopted, unless adoption of the rule is permitted by this subsection. It is the intent of the General Assembly that the standards and limitations adopted by the Department shall be no more restrictive than the most nearly applicable federal standards and limitations. Adoption of a rule with more restrictive standards or limitations is permitted to respond to at least one of the following:

(1) A serious and unforeseen threat to the public health, safety, or welfare.

(2) An act of the General Assembly or United States Congress that expressly requires the Department to adopt rules.

(3) A change in federal or State budgetary policy.

(4) A federal regulation required by an act of the United States Congress to be adopted or administered by the State.

(5) A court order.

(b) No Federal Analog. – Before the Department publishes in the North Carolina Register the proposed text of a permanent rule change with no federal analog, the Department shall prepare and submit into the record of the rule making an evaluation of costs and benefits. The evaluation shall include estimates of the economic and social costs of compliance with the proposed rule to commerce and industry, units of local government, and any other entities affected by the rule, as well as estimates of the benefits of the proposed rule to public health, safety, and welfare and to the environment. The evaluation shall present relevant data, assumptions, analyses, and calculations in sufficient detail to allow the calculation of a ratio of

quantifiable costs to quantifiable benefits for the proposed rule. Benefits and costs which cannot be quantified may be expressed in qualitative terms. For purposes of this subsection "no federal analog" means that there is no federal regulation, standard, or requirement pertaining to the same subject matter or activity. This subsection does not apply to a rule required by an act of the General Assembly or the United States Congress that expressly requires the Department to adopt rules."

**SECTION 13.11B.(c)** Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-279.16. Limitation on rule-making authority.**

(a) Federal Analog. – An agency, as defined in G.S. 150B-2 and created under this Article, may not adopt a rule that imposes a more restrictive standard or limitation than those imposed by federal law or rule if a federal law or rule pertaining to the same subject matter has been adopted, unless adoption of the rule is permitted by this subsection. It is the intent of the General Assembly that the standards and limitations adopted by such agency shall be no more restrictive than the most nearly applicable federal standards and limitations. Adoption of a rule with more restrictive standards or limitations is permitted to respond to at least one of the following:

(1) A serious and unforeseen threat to the public health, safety, or welfare.
(2) An act of the General Assembly or United States Congress that expressly requires such agency to adopt rules.
(3) A change in federal or State budgetary policy.
(4) A federal regulation required by an act of the United States Congress to be adopted or administered by the State.
(5) A court order.

(b) No Federal Analog. – Before the agency publishes in the North Carolina Register the proposed text of a permanent rule change with no federal analog, the agency shall prepare and submit into the record of the rule making an evaluation of costs and benefits. The evaluation shall include estimates of the economic and social costs of compliance with the proposed rule to commerce and industry, units of local government, and any other entities affected by the rule, as well as estimates of the benefits of the proposed rule to public health, safety, and welfare and to the environment. The evaluation shall present relevant data, assumptions, analyses, and calculations in sufficient detail to allow the calculation of a ratio of quantifiable costs to quantifiable benefits for the proposed rule. Benefits and costs which cannot be quantified may be expressed in qualitative terms. For purposes of this subsection "no federal analog" means that there is no federal regulation, standard, or requirement pertaining to the same subject matter or activity. This subsection does not apply to a rule required by an act of the General Assembly or the United States Congress that expressly requires the agency to adopt rules."

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

**SECTION 13.14.(a)** Notwithstanding the provisions of G.S. 113-44.15(b), effective for taxes levied during the 2011-2012 fiscal year, the net tax proceeds that are credited to the Parks and Recreation Trust Fund by the Secretary of Revenue pursuant to G.S. 105-228.30(b) shall be allocated as follows:

(1) Six million dollars ($6,000,000) shall be used for the operating expenses of the Division of Parks and Recreation of the Department of Environment and Natural Resources;
(2) Up to nine million seven hundred fifty thousand dollars ($9,750,000) shall be used for the State Parks System for capital projects, repairs and renovations of park facilities, and land acquisition and to retire debt incurred for these purposes under Article 9 of Chapter 142 of the General Statutes;
(3) Up to six million three hundred forty-five thousand dollars ($6,345,000) shall be used for grants to local government units consistent with the match and other requirements set forth in G.S. 113-44.14(b)(2); and
(4) Up to one million fifty-seven thousand five hundred dollars ($1,057,500) shall be used for the Coastal and Estuarine Water Beach Access Program.

**SECTION 13.14.(b)** Any funds that become available to the Parks and Recreation Trust Fund during the 2011-2012 fiscal year that are in excess of the funds allocated under subsection (a) of this section shall be used as provided in G.S. 113-44.15(b).

**NATURAL HERITAGE TRUST FUND USED FOR COSTS TO ADMINISTER PLANT CONSERVATION PROGRAM/CONSERVATION PLANNING & COMMUNITY AFFAIRS PROGRAM**

**SECTION 13.16.** G.S. 113-77.9(c) reads as rewritten:

"(c) Other Purposes. – The Trustees may authorize expenditures from the Fund to pay for the inventory of natural areas conducted under the Natural Heritage Program established pursuant to the Nature Preserves Act, Article 9A of Chapter 113A of the General Statutes. The Trustees may also authorize expenditures from the Fund to pay for conservation and protection planning and for informational programs for owners of natural areas, as defined in G.S. 113A-164.3. The Trustees shall authorize expenditures from the Fund not to exceed seventy-five thousand dollars ($75,000) to pay the cost of the Department of Agriculture and Consumer Services to administer the Plant Conservation Program. The Trustees shall authorize expenditures from the Fund not to exceed three hundred twenty-five thousand dollars ($325,000) to pay the cost of supporting staff in the Office of Conservation Planning and Community Affairs of the Department of Environment and Natural Resources."

**OYSTER SANCTUARY PROGRAM SUPPORT**

**SECTION 13.18.** G.S. 113-175.1(c) reads as rewritten:

"(c) The Marine Fisheries Commission and the Wildlife Resources Commission may authorize the disbursement of the principal of the Marine Resources Fund and marine resources investment income only to manage, protect, restore, develop, cultivate, conserve, and enhance the marine resources of the State. The Marine Fisheries Commission and the Wildlife Resources Commission are encouraged to consider supporting the Oyster Sanctuary Program managed by the Division of Marine Fisheries. The Marine Fisheries Commission and the Wildlife Resources Commission may not authorize the disbursement of the principal of the Marine Resources Fund and marine resources investment income to establish positions without specific authorization from the General Assembly. All proposals to the Marine Fisheries Commission and the Wildlife Resources Commission for the disbursement of funds from the Marine Resources Fund shall be made by and through the Fisheries Director. Expenditure of the assets of the Marine Resources Fund shall be made through the State budget accounts of the Division of Marine Fisheries in accordance with the provisions of the Executive Budget Act. The Marine Resources Fund is subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

**MARINE FISHERIES ENCOURAGED TO CONTRACT WITH PRIVATE SECTOR FOR OYSTER SANCTUARY RESTORATION**

**SECTION 13.18A.** The Division of Marine Fisheries of the Department of Environment and Natural Resources is encouraged to contract with private sector businesses for any oyster sanctuary restoration projects in the Pamlico Sound that are funded in whole or in part with State funds, State fees, State grants, or revenue generated from any license issued by the State.

**DIVISION OF MARINE FISHERIES TO USE DIVISION OF FOREST RESOURCES MECHANICS FOR AIRCRAFT MAINTENANCE**

**SECTION 13.18B.(a)** The Division of Marine Fisheries of the Department of Environment and Natural Resources shall use mechanics employed by the Division of Forest Resources of the Department of Environment and Natural Resources for the purpose of performing aircraft maintenance for all aircraft of the Division of Marine Fisheries except for a particular instance when this would be impracticable.

**SECTION 13.18B.(b)** The Division of Forest Resources of the Department of Environment and Natural Resources shall perform aircraft maintenance using its mechanics for all aircraft of the Division of Marine Fisheries, except for a particular instance when this would be impracticable. The Division of Forest Resources shall develop a process to establish priorities for the aviation maintenance needs of all the aircraft in both the Division of Forest Resources and the Division of Marine Fisheries.

**END PILOT PROGRAM FOR ANNUAL INSPECTIONS OF CERTAIN ANIMAL OPERATIONS**

**SECTION 13.21.(a)** Section 15.4(a) of S.L. 1997-443, as amended by Section 3.1 of S.L. 1999-329, Section 5 of S.L. 2001-254, Section 1.1 of S.L. 2002-176, Section 6.1 of S.L. 2003-340, Section 12.7(a) of S.L. 2005-276, Section 2 of S.L. 2007-536, and Section 1 of S.L. 2009-84, reads as rewritten:

"**SECTION 1.** Section 15.4(a) of S.L. 1997-443, as amended by Section 3.1 of S.L. 1999-329, Section 5 of S.L. 2001-254, Section 1.1 of S.L. 2002-176, Section 6.1 of S.L. 2003-340, Section 12.7(a) of S.L. 2005-276, and Section 2 of S.L. 2007-536, reads as rewritten:

'(a) The Department of Environment and Natural Resources shall develop and implement a pilot program to begin no later than 1 November 1997, and to terminate ~~1 September 2011~~June 30, 2011, regarding the annual inspections of animal operations that are subject to a permit under Article 21 of Chapter 143 of the General Statutes. The Department shall select two counties located in a part of the State that has a high concentration of swine farms to participate in this ~~pilot~~ program. In addition, Brunswick County and Pender County shall be added to the program. Notwithstanding G.S. 143-215.10F, the Division of Soil and Water Conservation of the Department of Environment and Natural Resources shall conduct inspections of all animal operations that are subject to a permit under Article 21 of Chapter 143 of the General Statutes in these four counties at least once a year to determine whether any animal waste management system is causing a violation of water quality standards and whether the system is in compliance with its animal waste management plan or any other condition of the permit. The personnel of the Division of Soil and Water Conservation who are to conduct these inspections in each of these four counties shall be located in an office in the county in which that person will be conducting inspections. As part of this ~~pilot~~ program, the Department of Environment and Natural Resources shall establish procedures whereby resources within the local Soil and Water Conservation Districts serving the four counties are used for the quick response to complaints and reported problems previously referred only to the Division of Water Quality of the Department of Environment and Natural Resources.'"

**SECTION 13.21.(b)** The section becomes effective June 30, 2011.

**END DSWC ROLE REGARDING ANIMAL WASTE MANAGEMENT SYSTEMS**

**SECTION 13.22.(a)** G.S. 143-215.10A reads as rewritten:

"**§ 143-215.10A. Legislative findings and intent.**

The General Assembly finds that animal operations provide significant economic and other benefits to this State. The growth of animal operations in recent years has increased the importance of good animal waste management practices to protect water quality. It is critical that the State balance growth with prudent environmental safeguards. It is the intention of the State to promote a cooperative and coordinated approach to animal waste management among the agencies of the State with a primary emphasis on technical assistance to farmers. To this end, the General Assembly intends to establish a permitting program for animal waste management systems that will protect water quality and promote innovative systems and practices while minimizing the regulatory burden. Technical ~~assistance, through operations reviews,~~assistance will be provided by the Division of Soil and Water Conservation. ~~Permitting, inspection,~~Inspection and enforcement will be ~~vested in~~provided by the Division of Water Quality."

**SECTION 13.22.(b)** G.S. 143-215.10D is repealed.

**TRANSFER DIVISION OF SOIL AND WATER CONSERVATION AND SOIL AND WATER CONSERVATION COMMISSION TO DACS**

**SECTION 13.22A.(a)** The Division of Soil and Water Conservation is transferred from the Department of Environment and Natural Resources to the Department of Agriculture and Consumer Services with all the elements of a Type I transfer, as defined by G.S. 143A-6.

**SECTION 13.22A.(b)** All functions, powers, duties, and obligations previously vested in the State Soil and Water Conservation Commission are transferred to and vested in the Department of Agriculture and Consumer Services by a Type II transfer, as defined in G.S. 143A-6.

**SECTION 13.22A.(c)** G.S. 143B-279.3(a) reads as rewritten:

"(a) All functions, powers, duties, and obligations previously vested in the following subunits of the following departments are transferred to and vested in the Department of Environment and Natural Resources by a Type I transfer, as defined in G.S. 143A-6:

...

~~(10) Soil and Water Conservation Division, Department of Natural Resources and Community Development.~~

...."

**SECTION 13.22A.(d)** G.S. 143B-279.3(b) reads as rewritten:

"(b) All functions, powers, duties, and obligations previously vested in the following commissions, boards, councils, and committees of the following departments are transferred to and vested in the Department of Environment and Natural Resources by a Type II transfer, as defined in G.S. 143A-6:

...

~~(21) State Soil and Water Conservation Commission, Department of Natural Resources and Community Development.~~

...."

**SECTION 13.22A.(e)** Part 7 of Article 7 of Chapter 143B of the General Statutes is recodified as Article 71 of Chapter 106 of the General Statutes, and accordingly G.S. 143B-294 through G.S. 143B-297.1 are recodified as G.S. 106-840 through G.S. 106-844.

**SECTION 13.22A.(f)** G.S. 106-840, as recodified by subsection (e) of this section, reads as rewritten:

"**§ 106-840. Soil and Water Conservation Commission – creation; powers and duties; compliance inspections.**

(a) There is hereby created the Soil and Water Conservation Commission of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services with the power and duty to adopt rules to be followed in the development and implementation of a soil and water conservation program.

(1) The Soil and Water Conservation Commission has all of the following powers and duties:

a. To approve petitions for soil conservation districts.

b. To approve application for watershed plans.

c. Such other duties as specified in Chapter 139.

d. To conduct any inspections in accordance with subsection (b) of this section.

(2) The Commission shall adopt rules consistent with the provisions of this Chapter. All rules not inconsistent with the provisions of this Chapter heretofore adopted by the Soil and Water Conservation Committee shall remain in full force and effect unless and until repealed or superseded by action of the Soil and Water Conservation Commission. All rules adopted by the Commission shall be enforced by the Department of ~~Environment and Natural Resources.~~Agriculture and Consumer Services.

(b) An employee or agent of the Soil and Water Conservation Commission or the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services may enter property, with the consent of the owner or person having control over property, at reasonable times for the purposes of investigating compliance with Commission or Department programs when the investigation is reasonably necessary to carry out the duties of the Commission. If the Commission or Department is unable to obtain the consent of the owner of the property, the Commission or Department may obtain an administrative search warrant pursuant to G.S. 15-27.2.

(c) Any person who refuses entry or access to property by an employee or agent of the Commission or the Department or who willfully resists, delays, or obstructs an employee or agent of the Commission or the Department while the employee or agent is in the process of carrying out official duties after the employee or agent has obtained the consent of the owner or person having control of the property or, if consent is not obtained, after the employee or agent has obtained an administrative search warrant, shall be guilty of a Class 1 misdemeanor."

**SECTION 13.22A.(g)** G.S. 106-841, as recodified by subsection (e) of this section, reads as rewritten:

"**§ 106-841. Soil and Water Conservation Commission – members; selection; removal; compensation; quorum; services.**

(a) The Soil and Water Conservation Commission of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services shall be composed of seven members appointed by the Governor. The Commission shall be composed of the following members:

...

(g) All clerical and other services required by the Commission shall be supplied by the ~~Secretary of Environment and Natural Resources.~~ Department of Agriculture and Consumer Services."

**SECTION 13.22A.(h)** G.S. 139-3(4) reads as rewritten:

"(4) "Commission" or "Soil and Water Conservation Commission" means the Soil and Water Conservation Commission created by G.S. ~~143B-294.~~106-840."

**SECTION 13.22A.(i)** G.S. 139-4(d) reads as rewritten:

"(d) In addition to the duties and powers hereinafter conferred upon the Soil and Water Conservation Commission, it shall have the following duties and powers:

...

(9) To create, implement, and supervise the Agriculture Cost Share Program for Nonpoint Source Pollution Control created pursuant to ~~Part 9 of Article 21 of Chapter 143~~Article 72 of Chapter 106 of the General Statutes and the Community Conservation Assistance Program created pursuant to Part 11 of Article 21 of Chapter 143 of the General Statutes.

(10) To review and approve or disapprove the application of a district supervisor for a grant under the Agriculture Cost Share Program for Nonpoint Source Pollution Control or the Community Conservation Assistance Program as provided by G.S. 139-8(b).

(11) To develop and implement a program for the approval of water quality and animal waste management systems technical specialists.

(12) To develop and approve best management practices for the Agriculture Cost Share Program for Nonpoint Source Pollution Control and for use in the water quality protection programs of the Department of Environment and Natural Resources and to adopt rules that establish criteria governing approval of these best management practices."

**SECTION 13.22A.(j)** G.S. 139-4(e) reads as rewritten:

"(e) A member of the Commission may apply for and receive a grant under the Agriculture Cost Share Program for Nonpoint Source Pollution Control and the Community Conservation Assistance Program if:

(1) The member does not vote on the application or attempt to influence the outcome of any action on the application; and

(2) The application is approved by the ~~Secretary of Environment and Natural Resources.~~Commissioner of Agriculture."

**SECTION 13.22A.(k)** G.S. 139-5(d) reads as rewritten:

"(d) The Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services shall pay all expenses for the issuance of such notices and the conduct of such hearings and referenda, and shall supervise the conduct of such hearings and referenda. It shall issue appropriate regulations governing the conduct of such hearings and referenda, and providing for the registration prior to the date of the referendum of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum. No informality in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted."

**SECTION 13.22A.(l)** G.S. 139-5(e) reads as rewritten:

"(e) The Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services shall publish the results of such referendum and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the Commission shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the Commission shall determine that the operation of such district is administratively practicable and feasible, it shall record such in the manner hereinafter

provided. In making such determination the Commission shall give due regard and weight to the attitudes of the occupiers of lands lying within the defined boundaries, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the proposed district, the probable expense of carrying on erosion control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative determination set forth in G.S. 139-2: Provided, however, that the Commission shall not have authority to determine that the operations of the proposed district within the defined boundaries is administratively practicable and feasible unless at least a majority of the votes cast in the referendum upon the proposition of creation of the district shall have been cast in favor of the creation of such district."

**SECTION 13.22A.(m)** G.S. 139-7 reads as rewritten:

"**§ 139-7. District board of supervisors – appointive members; organization of board; certain powers and duties.**

The governing body of a soil and water conservation district shall consist of the three elective supervisors from the county or counties in the district, together with the appointive members appointed by the Soil and Water Conservation Commission pursuant to this section, and shall be known as the district board of supervisors. When a district is composed of less than four counties, the board of supervisors of each county shall on or before October 31, 1978, and on or before October 31 as the terms of the appointive supervisors expire, recommend in writing two persons from the district to the Commission to be appointed to serve with the elective supervisors. If the names are not submitted to the Commission as required, the office shall be deemed vacant on the date the term is set to expire and the Commission shall appoint two persons of the district to the district board of supervisors to serve with the elected supervisors. The Commission shall make its appointments prior to or at the November meeting of the Commission. Appointive supervisors shall take office on the first Monday in December following their appointment. Such appointive supervisors shall serve for a term of four years, and thereafter, as their terms expire, their successors shall serve for a term of four years. The terms of office of all appointive supervisors who have heretofore been lawfully appointed for terms the final year of which presently extends beyond the first Monday in December are hereby terminated on the first Monday in December of the final year of appointment. Vacancies for any reason in the appointive supervisors shall be filled for the unexpired term by the appointment of a person by the Commission from the district in which the vacancy occurs. Vacancies for any reason in the elected supervisors shall be filled for the unexpired term by appointment by the Commission of a person from the county in the district in which the vacancy occurs.

In those districts composed of four or more counties, the Commission may, but is not required to, appoint two persons from the district without recommendation from the board of supervisors, to serve as district supervisors along with the elected members of the board of supervisors. Such appointments shall be made at the same time other appointments are made under this section, and the persons appointed shall serve for a term of four years.

The supervisors shall designate a chairman and may, from time to time, change such designation. A simple majority of the board shall constitute a quorum for the purpose of transacting the business of the board, and approval by a majority of those present shall be adequate for a determination of any matter before the board, provided at least a quorum is present. Supervisors of soil and water conservation districts shall be compensated for their services at the per diem rate and allowed travel, subsistence and other expenses, as provided for State boards, commissions and committees generally, under the provisions of G.S. 138-5; provided, that when per diem compensation and travel, subsistence, or other expense is claimed by any supervisor for services performed outside the district for which such supervisor ordinarily may be appointed or elected to serve, the same may not be paid unless prior written approval is obtained from the Department of ~~Environment and Natural Resources.~~Agriculture and Consumer Services.

The supervisors may employ a secretary, technical experts, whose qualifications shall be approved by the Department, and such other employees as they may require, and shall determine their qualifications, duties and compensation. The supervisors may call upon the Attorney General of the State for such legal services as they may require. The supervisors may delegate to their chairman, to one or more supervisors, or to one or more agents, or employees

such powers and duties as they may deem proper. The supervisors shall furnish to the Soil and Water Conservation Commission, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this Chapter.

The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. In any given year, if the supervisors provide for an internal audit, and the supervisor serving as chairman certifies, under oath, that this internal audit is a true and accurate reflection of the accounts of receipts and disbursements, then the supervisors shall not be required, notwithstanding the provisions of G.S. 159-34, to provide for an audit of the accounts of receipts and disbursements by a certified public accountant or by an accountant certified by the Local Government Commission. Any supervisor may be removed by the Soil and Water Conservation Commission upon notice and hearing, for neglect of duty, incompetence or malfeasance in office, but for no other reason.

The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

~~All district supervisors whose terms of office expire prior to the first Monday in January, 1948, shall hold over and remain in office until supervisors are elected or appointed and qualify as provided in this Chapter, as amended. The terms of office of all district supervisors, who have heretofore been elected or appointed for terms extending beyond the first Monday in January, 1948, are hereby terminated on the first Monday in January, 1948.~~"

**SECTION 13.22A.(n)** G.S. 139-8(a)(13) reads as rewritten:

"(13) To assist the Commission in the implementation and supervision of the Agriculture Cost Share Program for Nonpoint Source Pollution Control created pursuant to ~~G.S. 143-215.74~~G.S. 106-850 and to assist in the implementation and supervision of any other program intended to protect water quality or quantity administered by the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services by providing technical assistance, allocating available grant monies, and providing any other assistance that may ~~by~~ be required or authorized by any provision of federal or State law."

**SECTION 13.22A.(o)** G.S. 139-13 reads as rewritten:

"**§ 139-13. Discontinuance of districts.**

At any time after five years after the organization of a district under the provisions of this Chapter, any 25 occupiers of land lying within the boundaries of such districts may file a petition with the Soil and Water Conservation Commission praying that the operations of the district be terminated and the existence of the district discontinued. The Commission may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within 60 days after such a petition has been received by the Commission it shall give due notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the _____ (name of the soil and water conservation district to be here inserted)" and "Against terminating the existence of the _____ (name of the soil and water conservation district to be here inserted)" shall appear with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All occupiers of lands lying within the boundaries of the district shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services shall publish the result of such referendum and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively

practicable and feasible. If the Commission shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the Commission shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination the Commission shall give due regard and weight to the attitudes of the occupiers of lands lying within the district, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the district, the probable expense of carrying on erosion control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in G.S. 139-2: Provided, however, that the Commission shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the referendum shall have been cast in favor of the continuance of such district.

Upon receipt from the Soil and Water Conservation Commission of a certification that the Commission has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be covered into the State treasury. The supervisors shall thereupon file an application, duly verified, with the Secretary of State for the discontinuance of such district, and shall transmit with such application the certificates of the Soil and Water Conservation Commission setting forth the determination of the Commission that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The Secretary of State shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

Upon issuance of a certificate of dissolution under the provisions of this section, all ordinances and regulations theretofore adopted and in force within such districts shall be of no further force and effect. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The Soil and Water Conservation Commission shall be substituted for the district or supervisors as party to such contracts. The Commission shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise as the supervisors of the district would have had. Such dissolution shall not affect the lien of any judgment entered under the provisions of G.S. 139-11, nor the pendency of any action instituted under the provisions of such section, and the Commission shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions.

The Soil and Water Conservation Commission shall not entertain petitions for the discontinuance of any district nor conduct referenda upon such petitions, nor make determinations pursuant to such petitions, in accordance with the provisions of this Chapter, more often than once in five years."

**SECTION 13.22A.(p)** G.S. 143-215.10A reads as rewritten:

"**§ 143-215.10A. Legislative findings and intent.**

The General Assembly finds that animal operations provide significant economic and other benefits to this State. The growth of animal operations in recent years has increased the importance of good animal waste management practices to protect water quality. It is critical that the State balance growth with prudent environmental safeguards. It is the intention of the State to promote a cooperative and coordinated approach to animal waste management among the agencies of the State with a primary emphasis on technical assistance to farmers. To this end, the General Assembly intends to establish a permitting program for animal waste management systems that will protect water quality and promote innovative systems and practices while minimizing the regulatory burden. Technical assistance, through operations reviews, will be provided by the Division of Soil and Water ~~Conservation.~~Conservation of the

Department of Agriculture and Consumer Services. Permitting, inspection, and enforcement will be vested in the Division of Water Quality."

**SECTION 13.22A.(q)** G.S. 143-215.10C(e)(6) reads as rewritten:

"(6) Provisions regarding periodic testing of waste products used as nutrient sources as close to the time of application as practical and at least within 60 days of the date of application and periodic testing, at least annually, of soils at crop sites where the waste products are applied. Nitrogen shall be a rate-determining element. Phosphorus shall be evaluated according to the nutrient management standard approved by the Soil and Water Conservation Commission of the Department of Agriculture and Consumer Services and the Natural Resources Conservation Service of the United States Department of Agriculture for facilities that are required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418 (November 20, 2008). If the evaluation demonstrates the need to limit the application of phosphorus in order to comply with the nutrient management standard, then phosphorus shall be a rate-determining element. Zinc and copper levels in the soils shall be monitored, and alternative crop sites shall be used when these metals approach excess levels."

**SECTION 13.22A.(r)** G.S. 143-215.10D reads as rewritten:

"**§ 143-215.10D. Operations review.**

(a) The Division, in cooperation with the Division of Soil and Water ~~Conservation,~~Conservation of the Department of Agriculture and Consumer Services, shall develop a reporting procedure for use by technical specialists who conduct operations reviews of animal operations. The reporting procedure shall be consistent with the Division's inspection procedure of animal operations and with this Part. The report shall include any corrective action recommended by the technical specialist to assist the owner or operator of the animal operation in complying with all permit requirements. The report shall be submitted to the Division within 10 days following the operations review unless the technical specialist observes a violation described in G.S. 143-215.10E. If the technical specialist finds a violation described in G.S. 143-215.10E, the report shall be filed with the Division immediately.

(b) As part of its animal waste management plan, each animal operation shall have an operations review at least once a year. The operations review shall be conducted by a technical specialist employed by the Division of Soil and Water Conservation of the ~~Department,~~Department of Agriculture and Consumer Services, a local Soil and Water Conservation District, or the federal Natural Resources Conservation Services working under the direction of the Division of Soil and Water Conservation.

(c) Operations reviews shall not be performed by technical specialists with a financial interest in any animal operation."

**SECTION 13.22A.(s)** G.S. 143-215.10M(a) reads as rewritten:

"(a) The Department shall report to the Environmental Review Commission and the Fiscal Research Division on or before 1 October of each year as required by this section. Each report shall include:

...

(2) The number of operations reviews of animal waste management systems that the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services has conducted since the last report.

(3) The number of operations reviews of animal waste management systems conducted by agencies other than the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services that have been conducted since the last report.

(4) The number of reinspections associated with operations reviews conducted by the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services since the last report.

(5) The number of reinspections associated with operations reviews conducted by agencies other than the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services since the last report.

...."

**SECTION 13.22A.(t)** Part 9 of Article 21 of Chapter 143 of the General Statutes is recodified as Article 72 of Chapter 106 of the General Statutes, and accordingly

G.S. 143-215.74, 143-215.74A, and 143-215.74B are recodified as G.S. 106-850, 106-851, and 106-852.

**SECTION 13.22A.(u)** G.S. 106-850(b)(9), as recodified under subsection (t) of this section, reads as rewritten:

"(9) When the applicant is either (i) a limited-resource farmer, (ii) a beginning farmer, or (iii) a person farming land that is located in an enhanced voluntary agricultural district and is subject to a conservation agreement under G.S. 106-743.2 that remains in effect, State funding shall be limited to ninety percent (90%) of the average cost for each practice with the assisted farmer providing ten percent (10%) of the cost, which may include in-kind support of the practice, with a maximum of one hundred thousand dollars ($100,000) per year to each applicant. The following definitions apply in this subdivision:

a. Beginning farmer. – A farmer who has not operated a farm or who has operated a farm for not more than 10 years and who will materially and substantially participate in the operation of the farm.

a1. Enhanced voluntary agricultural district. – A district established by a county or a city by ordinance under Part 3 of Article 61 of ~~Chapter 106 of the General Statutes.~~this Chapter.

...."

**SECTION 13.22A.(v)** G.S. 106-850(c), as recodified under subsection (t) of this section, reads as rewritten:

"(c) The program shall be reviewed, prior to implementation, by the Committee created by ~~G.S. 143-215.74B.~~G.S. 106-852. The Technical Review Committee shall meet quarterly to review the progress of this program."

**SECTION 13.22A.(w)** G.S. 106-850(e), as recodified under subsection (t) of this section, reads as rewritten:

"(e) The Soil and Water Conservation Commission shall report on or before 31 January of each year to the Environmental Review ~~Commission~~Commission, the Department of Agriculture and Consumer Services, and the Fiscal Research Division. This report shall include a list of projects that received State funding pursuant to the program, the results of the evaluations conducted pursuant to subdivision (7) of subsection (b) of this section, findings regarding the effectiveness of each of these projects to accomplish its primary purpose, and any recommendations to assure that State funding is used in the most cost-effective manner and accomplishes the greatest improvement in water quality."

**SECTION 13.22A.(x)** Part 11 of Article 21 of Chapter 143 of the General Statutes is recodified as Article 73 of Chapter 106 of the General Statutes, and accordingly G.S. 143-215.74M is recodified as G.S. 106-860.

**SECTION 13.22A.(y)** G.S. 106-860(a), as recodified under subsection (x) of this section, reads as rewritten:

"(a) Program Established. – There is established the Community Conservation Assistance Program. The Program shall be implemented and supervised by the Soil and Water Conservation ~~Commission.~~Commission of the Department of Agriculture and Consumer Services."

**SECTION 13.22A.(z)** G.S. 106-860(d), as recodified under subsection (x) of this section, reads as rewritten:

"(d) Advisory Committee. – The Program shall be reviewed, prior to implementation, by the Community Conservation Assistance Program Advisory Committee. The Advisory Committee shall meet quarterly to review the progress of the Program. The Advisory Committee shall consist of the following members:

(1) The Director of the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services or the Director's designee, who shall serve as the Chair of the Advisory Committee.

(2) The President of the North Carolina Association of Soil and Water Conservation Districts or the President's designee.

(3) The Director of the Cooperative Extension Service at North Carolina State University or the Director's designee.

(4) The Executive Director of the North Carolina Association of County Commissioners or the Executive Director's designee.

(5) The Executive Director of the North Carolina League of Municipalities or the Executive Director's designee.
(6) The State Conservationist of the Natural Resources Conservation Service of the United States Department of Agriculture or the State Conservationist's designee.
(7) The Executive Director of the Wildlife Resources Commission or the Executive Director's designee.
(8) The President of the North Carolina Conservation District Employees Association or the President's designee.
(9) The President of the North Carolina Association of Resource Conservation and Development Councils or the President's designee.
(10) The Director of the Division of Water Quality of the Department of Environment and Natural Resources or the Director's designee.
(11) The Director of the Division of Forest Resources of the Department of Environment and Natural Resources or the Director's designee.
(12) The Director of the Division of Land Resources of the Department of Environment and Natural Resources or the Director's designee.
(13) The Director of the Division of Coastal Management of the Department of Environment and Natural Resources or the Director's designee.
(14) The Director of the Division of Water Resources of the Department of Environment and Natural Resources or the Director's designee.
(15) The President of the Carolinas Land Improvement Contractors Association or the President's designee."

**SECTION 13.22A.(aa)** G.S. 106-860(e), as recodified under subsection (x) of this section, reads as rewritten:

"(e) Report. – The Soil and Water Conservation Commission shall report no later than 31 January of each year to the Environmental Review ~~Commission~~Commission, the Department of Agriculture and Consumer Services, and the Fiscal Research Division. The report shall include a summary of projects that received State funding pursuant to the Program, the results of the evaluation conducted pursuant to subdivision (5) of subsection (b) of this section, findings regarding the effectiveness of each project to accomplish its primary purpose, and any recommendations to assure that State funding is used in the most cost-effective manner and accomplishes the greatest improvement in water quality."

**SECTION 13.22A.(bb)** G.S. 113-291.10(a) reads as rewritten:

"(a) There is established the Beaver Damage Control Advisory Board. The Board shall consist of nine members, as follows:

...

(4) The Director of the Division of Soil and Water Conservation of the Department of ~~Environment and Natural Resources,~~Agriculture and Consumer Services, or a designee;

...."

**SECTION 13.22A.(cc)** G.S. 106-743.4(b) reads as rewritten:

"(b) A person who farms land that is subject to a conservation agreement under G.S. 106-743.2 that remains in effect is eligible under G.S. ~~143-215.74(b)~~106-850(b) to receive the higher percentage of cost-share funds for the benefit of that farmland under the Agriculture Cost Share Program established pursuant to ~~Part 9 of Article 21 of Chapter 143 of the General Statutes~~Article 72 of this Chapter for funds to benefit that farmland."

**SECTION 13.22A.(dd)** The Revisor of Statutes shall make the conforming statutory changes necessary to reflect the transfers under subsections (a) and (b) of this section. The Revisor of Statutes may correct any reference in the General Statutes to the statutes that are recodified by this section and any other conforming changes necessitated by this section.

**AGRICULTURAL WATER RESOURCES ASSISTANCE PROGRAM/CONFORMING CHANGES; FUNDS TO PROMOTE WATER SUPPLY DEVELOPMENT**

**SECTION 13.23.(a)** Chapter 139 of the General Statutes is amended by adding a new Article to read:

"Article 5.
"Agricultural Water Resources Assistance Program.
"**§ 139-60. Agricultural Water Resources Assistance Program.**

(a) Program Established. – The Agricultural Water Resources Assistance Program is established. The purpose of the Program shall be to assist farmers and landowners in doing any one or more of the following:

(1) Identify opportunities to increase water use efficiency, availability, and storage.

(2) Implement best management practices to conserve and protect water resources.

(3) Increase water use efficiency.

(4) Increase water storage and availability for agricultural purposes.

(b) Program Administration. – The Agricultural Water Resources Assistance Program shall be implemented by the Soil and Water Conservation Commission through the soil and water conservation districts in the same manner as the Agriculture Cost Share Program for Nonpoint Source Pollution Control under Part 9 of Article 21 of Chapter 143 of the General Statutes. The Soil and Water Conservation Commission shall supervise and administer this Program as provided in this section and as provided in Part 9 of Article 21 of Chapter 143 of the General Statutes for the Agriculture Cost Share Program for Nonpoint Source Pollution Control. At least once each calendar year, the Director of the Division of Soil and Water Conservation of the Department of Environment and Natural Resources and the Commissioner of Agriculture shall meet with stakeholders for the purpose of advising the Soil and Water Conservation Commission on the development and administration of the Program, including the development of annual goals for the Program.

(c) Program Functions. – Under the Agricultural Water Resources Assistance Program, the Soil and Water Conservation Commission shall do the following:

(1) Within funds available for this Program, provide cost-share funds subject to all of the following limitations and requirements:

a. Except as provided in G.S. 143-215.74(b)(9), State funding shall be limited to:

1. Seventy-five percent (75%) of the average cost for each project, with the assisted person providing twenty-five percent (25%) of the project cost, which may include in-kind support of the project.

2. A maximum of seventy-five thousand dollars ($75,000) per year to each applicant.

b. Applicants shall be limited to farmers who have an adjusted gross income in each of the previous two years that is at or below two hundred fifty thousand dollars ($250,000), unless at least seventy-five percent (75%) of this adjusted gross income is derived directly from farming, ranching, or forestry operations.

c. The requirements and limitations under subdivisions (1), (2), (5), (7), and (8) of subsection (b) of G.S. 143-215.74 do not apply. All other limitations and requirements set out in Part 9 of Article 21 of Chapter 143 of the General Statutes, as modified by this section, apply.

(2) Approve best management practices eligible for cost-share funds under this Program.

(3) Establish criteria to allocate funds to local soil and water conservation districts.

(4) Develop a process for soliciting and reviewing applications and for selecting farmers to participate in the Program.

(5) Investigate and pursue other funding sources to supplement State funds, including federal, local, and private funding sources.

(6) Provide technical assistance to participating persons to assist with the projects that are eligible for cost-share funds under subsection (a) of this section and to facilitate the timely transfer of technology among participating persons.

(7) Adopt temporary and permanent rules as necessary to implement this Program.

(d) Report. – No later than January 31 of each year, the Division of Soil and Water Conservation of the Department of Environment and Natural Resources shall prepare a comprehensive report on the implementation of subsections (a) through (c) of this section. The

report shall be submitted to the Environmental Review Commission as a part of the report required by G.S. 143-215.74(e)."

**SECTION 13.23.(b)** G.S. 14-234(d3) reads as rewritten:

"(d3) Subsection (a) of this section does not apply to an application for or the receipt of a grant under the Agriculture Cost Share Program for Nonpoint Source Pollution Control created pursuant to Part 9 of Article 21 of Chapter 143 of the General ~~Statutes or~~Statutes, the Community Conservation Assistance Program created pursuant to Part 11 of Article 21 of Chapter 143 of the General ~~Statutes~~ Statutes, or the Agricultural Water Resources Assistance Program created pursuant to Article 5 of Chapter 139 of the General Statutes by a member of the Soil and Water Conservation Commission if the requirements of G.S. 139-4(e) are met, and does not apply to a district supervisor of a soil and water conservation district if the requirements of G.S. 139-8(b) are met."

**SECTION 13.23.(c)** G.S. 139-4(d) reads as rewritten:

"(d) In addition to the duties and powers hereinafter conferred upon the Soil and Water Conservation Commission, it shall have the following duties and powers:

...

(9) To create, implement, and supervise the Agriculture Cost Share Program for Nonpoint Source Pollution Control created pursuant to Part 9 of Article 21 of Chapter 143 of the General ~~Statutes and~~ Statutes, the Community Conservation Assistance Program created pursuant to Part 11 of Article 21 of Chapter 143 of the General ~~Statutes.~~Statutes, and the Agricultural Water Resources Assistance Program created pursuant to Article 5 of this Chapter.

(10) To review and approve or disapprove the application of a district supervisor for a grant under the Agriculture Cost Share Program for Nonpoint Source Pollution ~~Control or~~Control, the Community Conservation Assistance ~~Program~~ Program, or the Agricultural Water Resources Assistance Program as provided by G.S. 139-8(b)."

**SECTION 13.23.(d)** G.S. 139-4(e) reads as rewritten:

"(e) A member of the Commission may apply for and receive a grant under the Agriculture Cost Share Program for Nonpoint Source Pollution ~~Control and~~Control, the Community Conservation Assistance ~~Program~~ Program, or the Agricultural Water Resources Assistance Program if:

(1) The member does not vote on the application or attempt to influence the outcome of any action on the application; and

(2) The application is approved by the Secretary of Environment and Natural Resources."

**SECTION 13.23.(e)** G.S. 139-8(b) reads as rewritten:

"(b) A district supervisor may apply for and receive a grant under the Agriculture Cost Share Program for Nonpoint Source Pollution Control created pursuant to Part 9 of Article 21 of Chapter 143 of the General ~~Statutes or~~Statutes, the Community Conservation Assistance Program created pursuant to Part 11 of Article 21 of Chapter 143 of the General ~~Statutes~~ Statutes, or the Agricultural Water Resources Assistance Program created pursuant to Article 5 of this Chapter if:

1. The district supervisor does not vote on the application or attempt to influence the outcome of any action on the application; and
2. The application is approved by the Commission."

**SECTION 13.23.(f)** The stakeholders that the Director of the Division of Soil and Water Conservation of the Department of Environment and Natural Resources and the Commissioner of Agriculture shall meet with, as required under G.S. 139-60, as enacted by subsection (a) of this section, shall be the stakeholders involved in identifying and developing best management practices for water conservation and water efficiency by agricultural water users pursuant to S.L. 2010-149.

**SECTION 13.23.(g)** The first report required by G.S. 139-60, as enacted by subsection (a) of this section, shall be submitted to the Environmental Review Commission no later than January 31, 2013.

**SECTION 13.23.(h)** Of the funds available to the Department of Environment and Natural Resources for Water Resource Projects, the sum of one million dollars ($1,000,000) shall be transferred to the Department of Environment and Natural Resources, Division of Soil and Water Conservation, for the 2011-2012 fiscal year to implement the Agricultural Water

Resources Assistance Program established in Article 5 of Chapter 139 of the General Statutes, as enacted by subsection (a) of this section. The Soil and Water Conservation Commission may use up to fifteen percent (15%) of these funds for the costs of the Division of Soil and Water Conservation and the costs of the Soil and Water Conservation Districts to provide engineering assistance, to provide technical assistance, and to administer the Agricultural Water Resources Assistance Program. Any of these funds that are not expended or encumbered as of June 30, 2012, shall not revert and shall remain available for purposes set forth in this subsection until expended.

**CONTRACT TO OUTSOURCE GIFT SHOPS AT NC ZOO TO DIRECT PROFITS TO ZOO FUND**

**SECTION 13.24.** The Department of Environment and Natural Resources shall enter into a contract for the operation of at least three of the gift shops located at the North Carolina Zoological Park during the 2011-2012 fiscal year and the 2012-2013 fiscal year, and this contract shall provide that any profits that result from operating these gift shops during the 2011-2012 fiscal year and the 2012-2013 fiscal year are credited at the end of each quarter to the Special Zoo Fund created under G.S. 143B-336.1. The provisions of Article 3 and Article 8 of Chapter 143 of the General Statutes apply to any contract entered into under this section.

**TRANSFER FORESTRY DIVISION AND FORESTRY COUNCIL FROM DENR TO DACS**

**SECTION 13.25.(a)** The Division of Forest Resources is transferred from the Department of Environment and Natural Resources to the Department of Agriculture and Consumer Services with all the elements of a Type I transfer as defined by G.S. 143A-6.

**SECTION 13.25.(b)** G.S. 143B-279.3(a) reads as rewritten:

"(a) All functions, powers, duties, and obligations previously vested in the following subunits of the following departments are transferred to and vested in the Department of Environment and Natural Resources by a Type I transfer, as defined in G.S. 143A-6:

...

~~(6) Forest Resources Division, Department of Natural Resources and Community Development.~~

...."

**SECTION 13.25.(c)** Article 7 of Chapter 143A of the General Statutes is amended by adding a new section to read:

"**§ 143A-65.1. Division of Forest Resources.**

The Department of Agriculture and Consumer Services shall have charge of the work of forest maintenance, forest fire prevention, reforestation, and the protection of lands and water supplies by the preservation of forests; it shall also have the care of State forests."

**SECTION 13.25.(d)** All functions, powers, duties, and obligations previously vested in the Forestry Council are transferred from the Department of Environment and Natural Resources to and vested in the Department of Agriculture and Consumer Services by a Type II transfer, as defined in G.S. 143A-6.

**SECTION 13.25.(e)** G.S. 143B-279.3(b) reads as rewritten:

"(b) All functions, powers, duties, and obligations previously vested in the following commissions, boards, councils, and committees of the following departments are transferred to and vested in the Department of Environment and Natural Resources by a Type II transfer, as defined in G.S. 143A-6:

...

~~(13) Forestry Council, Department of Natural Resources and Community Development.~~

...."

**SECTION 13.25.(f)** Part 12 of Article 7 of Chapter 143B of the General Statutes (G.S. 143B-308, 143B-309, and 143B-310) is recodified in Article 7 of Chapter 143A of the General Statutes as G.S. 143A-66.1, 143A-66.2, and 143A-66.3.

**SECTION 13.25.(g)** G.S. 143A-66.1, as recodified in subsection (f) of this section, reads as rewritten:

"**§ 143A-66.1. Forestry Council – creation; powers and duties.**

There is hereby created the Forestry Council of the Department of ~~Environment and Natural Resources.~~Agriculture and Consumer Services. The Forestry Council shall have the following functions and duties:

(1) To advise the ~~Secretary of Environment and Natural Resources~~Commissioner of Agriculture with respect to all matters concerning the protection, management, and preservation of State-owned, privately owned, and municipally owned forests in the State, including but not limited to:
   a. Profitable use of the State's forests consistent with the principles of sustained productivity.
   b. Best management practices, including those for protection of soil, water, wildlife, and wildlife habitat, to be used in managing the State's forests and their resources.
   c. Restoration of forest ecosystems and protection of rare and endangered species occurring in the State's private forests consistent with principles of private ownership of land.

(2) To maintain oversight of a continuous monitoring and planning process, to provide a long-range, comprehensive plan for the use, management, and sustainability of North Carolina's forest resources, and to report regularly on progress made toward meeting the objectives of the plan.

(3) To provide a forum for the identification, discussion, and development of recommendations for the resolution of conflicts in the management of North Carolina's forests.

(4) To undertake any other studies, make any reports, and advise the ~~Secretary of Environment and Natural Resources~~Commissioner of Agriculture on any matter as the ~~Secretary~~ Commissioner may direct."

**SECTION 13.25.(h)** G.S. 143A-66.2, as recodified in subsection (f) of this section, reads as rewritten:

"**§ 143A-66.2. Forestry Council – members; chairperson; selection; removal; compensation; quorum.**

(a) The Forestry Advisory Council of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services shall consist of 18 members appointed as follows:

(1) Three persons who are registered foresters and who represent the primary forest products industry, one each from the Mountains, Piedmont and Coastal Plain.
(2) One person who represents the secondary wood-using industry.
(3) One person who represents the logging industry.
(4) Four persons who are nonindustrial woodland owners actively involved in forest management, one of whom has agricultural interests, and at least one each from the Mountains, Piedmont, and Coastal Plain.
(5) Three persons who are members of statewide environmental or wildlife conservation organizations.
(6) One consulting forester.
(7) Two persons who are forest scientists with knowledge of the functioning and management of forest ecosystems.
(8) One person who represents a banking institution that manages forestland.
(9) One person with expertise in urban forestry.
(10) One person with active experience in city and regional planning.

...

(h) All clerical and other services required by the Council, including the support required to carry out studies it is requested to make, shall be supplied by the ~~Secretary of Environment and Natural Resources.~~Commissioner of Agriculture."

**SECTION 13.25.(i)** G.S. 106-22 is amended by adding two new subdivisions to read:

"(18) Forests. – Have charge of forest maintenance, forest fire protection, reforestation, and the protection of the forests.

(19) State forests. – Have charge of all State forests and measures for forest fire prevention."

**SECTION 13.25.(j)** G.S. 113-8 reads as rewritten:

"**§ 113-8. Powers and duties of the Department.**

The Department shall make investigations of the natural resources of the State, and take such measures as it may deem best suited to promote the conservation and development of such resources.

It shall have ~~charge of the work of forest maintenance, forest fire prevention, reforestation, and~~ the protection of lands and water ~~supplies by the preservation of forests;~~supplies; it shall also have the care of State ~~forests and~~ parks, and other recreational areas now owned or to be acquired by the State, including the lakes referred to in G.S. 146-7.

It shall make such examination, survey and mapping of the geology, mineralogy and topography of the State, including their industrial and economic utilization, as it may consider necessary; make investigations of water supplies and water powers, prepare and maintain a general inventory of the water resources of the State, and take such measures as it may consider necessary to promote their development.

It shall have the duty of enforcing all laws relating to the conservation of marine and estuarine resources.

The Department may take such other measures as it may deem advisable to obtain and make public a more complete knowledge of the State and its resources, and it is authorized to cooperate with other departments and agencies of the State in obtaining and making public such information.

The Department may acquire such real and personal property as may be found desirable and necessary for the performance of the duties and functions of the Department and pay for same out of any funds appropriated for the Department or available unappropriated revenues of the Department, when such acquisition is approved by the Governor and Council of State. The title to any real estate acquired shall be in the name of the State of North Carolina for the use and benefit of the Department."

**SECTION 13.25.(k)** G.S. 113-22 is repealed.

**SECTION 13.25.(l)** G.S. 106-22 is amended by adding three new subdivisions to read:

"(18) Forests. – Have charge of forest maintenance, forest fire protection, reforestation, and the protection of the forests.

(19) State forests. – Have charge of all State forests and measures for forest fire prevention.

(20) Property for State forests. – Acquire real and personal property as desirable and necessary for the performance of the duties and functions of the Department under subdivision (19) of this section and pay for the property out of any funds appropriated for the Department or available unappropriated revenues of the Department, when such acquisition is approved by the Governor and Council of State. The title to any real estate acquired under this subdivision shall be in the name of the State of North Carolina for the use and benefit of the Department."

**SECTION 13.25.(m)** The title of Subchapter II of Chapter 113 of the General Statutes reads as rewritten:

"**SUBCHAPTER II. STATE ~~FORESTS AND~~ PARKS.**"

**SECTION 13.25.(n)** Article 2 of Chapter 113 of the General Statutes reads as rewritten:

"Article 2.

"Acquisition and Control of State ~~Forests and~~ Parks.

"**§ 113-29. ~~Policy and plan to be inaugurated by Department of Environment and Natural Resources.~~Definitions.**

~~(a)~~ In this Article, unless the context requires otherwise, "Department" means the Department of Environment and Natural Resources; and "Secretary" means the Secretary of Environment and Natural Resources.

~~(b) The Department of Environment and Natural Resources shall inaugurate the following policy and plan looking to the cooperation with private and public forest owners in this State insofar as funds may be available through legislative appropriation, gifts of money or land, or such cooperation with landowners and public agencies as may be available:~~

~~(1) The extension of the forest fire prevention organization to all counties in the State needing such protection.~~

~~(2) To cooperate with federal and other public agencies in the restoration of forest growth on land unwisely cleared and subsequently neglected.~~

~~(3) To furnish trained and experienced experts in forest management, to inspect private forestlands and to advise with forest landowners with a view to the general observance of recognized and practical rules of growing, cutting and marketing timber. The services of such trained experts of the Department must naturally be restricted to those landowners who agree to carry out so far as possible the recommendations of said Department.~~

~~(4) To prepare and distribute printed and other material for the use of teachers and club leaders and to provide instruction to schools and clubs and other groups of citizens in order to train the younger generation in the principles of wise use of our forest resources.~~

~~(5) To acquire small areas of suitable land in the different regions of the State on which to establish small, model forests which shall be developed and used by the said Department as State demonstration forests for experiment and demonstration in forest management.~~

**~~"§ 113-29.1. Growing of timber on unused State lands authorized.~~**

~~The Department of Administration may allocate to the Department, for management as a State forest, any vacant and unappropriated lands, any marshlands or swamplands, and any other lands title to which is vested in the State or in any State agency or institution, where such lands are not being otherwise used and are not suitable for cultivation. Lands under the supervision of the Wildlife Resources Commission and designated and in use as wildlife management areas, refuges, or fishing access areas and lands used as research stations shall not be subject to the provisions of this section. The Department shall plant timber producing trees on all lands allocated to it for that purpose by the Department of Administration. The Secretary may contract with the appropriate prison authorities for the furnishing, upon such conditions as may be agreed upon from time to time between such prison authorities and the Secretary, of prison labor for use in the planting, cutting, and removal of timber from State forests which are under the management of the Department.~~

**~~"§ 113-30. Use of lands acquired by counties through tax foreclosures as demonstration forests.~~**

~~The boards of county commissioners of the various counties of North Carolina are herewith authorized to turn over to the said Department title to such tax delinquent lands as may have been acquired by said counties under tax sale and as in the judgment of the Secretary may be suitable for the purposes named in G.S. 113-29, subdivision (5).~~

**~~"§ 113-31. Procedure for acquisition of delinquent tax lands from counties.~~**

~~In the carrying out of the provisions of G.S. 113-30, the several boards of county commissioners shall furnish forthwith on written request of the Department a complete list of all properties acquired by the county under tax sale and which have remained unredeemed for a period of two years or more. On receipt of this list the Secretary shall have the lands examined and if any one or more of these properties is in his judgment suitable for the purposes set forth in G.S. 113-30, request shall be made to the county commissioners for the acquisition of such land by the Department at a price not to exceed the actual amount of taxes due without penalties. On receipt of this request the county commissioners shall make permanent transfer of such tract or tracts of land to the Department through fee simple deed or other legal transfer, said deed to be approved by the Attorney General of North Carolina, and shall then receive payment from the Department as above outlined.~~

**~~"§ 113-32. Purchase of lands for use as demonstration forests.~~**

~~Where no suitable tax delinquent lands are available and in the judgment of the Department the establishment of a demonstration forest is advisable, the Department may purchase sufficient land for the establishment of such a demonstration forest at a fair and agreed upon price, the deed for such land to be subject to approval of the Attorney General, but nothing in G.S. 113-29 to 113-33 shall allow the Department to acquire land under the right of eminent domain.~~

**~~"§ 113-33. Forest management appropriation.~~**

~~Necessary funds for carrying out the provisions of G.S. 113-29 and 113-30 to 113-33 shall be set up in the regular budget as an item entitled "forest management.~~

**"§ 113-34. Power to acquire lands as State ~~forests,~~ parks, and other recreational areas; donations or leases by United States; leases for recreational purposes.**

(a) ~~The Governor may, upon recommendation of the Department, accept gifts of land to the State to be held, protected, and administered by the Department as State forests, and to be used so as to demonstrate the practical utility of timber culture and water conservation, and as refuges for game. The gifts of land must be absolute except in cases where the mineral interest on the land has previously been sold. The Department may purchase lands in the name of the State, suitable chiefly for the production of timber, as State forests, for experimental, demonstration, educational, park, and protection purposes, using for these purposes any special appropriations or funds available.~~ The Department may acquire by gift, purchase, or condemnation under the provisions of Chapter 40A of the General Statutes, areas of land in different sections of the State that may in the opinion of the Department be necessary for the purpose of establishing or developing ~~State forests,~~ State parks, and other areas and developments essential to the effective operation of the ~~State forestry and~~ State park activities under its charge. Condemnation proceedings shall be instituted and prosecuted in the name of the State, and any property so acquired shall be administered, developed, and used ~~for experiment and demonstration in forest management,~~ for public ~~recreation,~~recreation and for other purposes authorized or required by law. Before any action or proceeding under this section can be exercised, the approval of the Governor and Council of State shall be obtained and filed with the clerk of the superior court in the county or counties where the property is located. The Attorney General shall ensure that all deeds to the State for land acquired under this section are properly executed before the gift is accepted or payment of the purchase money is made.

(b) The Department may accept as gifts to the State any ~~forest and~~ submarginal farmland acquired by the federal government that is suitable for the purpose of creating and maintaining ~~State forests,~~ game refuges, public shooting grounds, State parks, State lakes, and other recreational areas, or to enter into longtime leases with the federal government for the areas and administer them with funds secured from their administration in the best interest of longtime public use, supplemented by any appropriations made by the General Assembly. The Department may segregate revenue derived from State hunting and fishing licenses, use permits, and concessions and other proper revenue secured through the administration of State ~~forests,~~ game refuges, public shooting grounds, State parks, State lakes, and other recreational areas to be deposited in the State treasury to the credit of the Department to be used for the administration of these areas.

(c) The Department, with the approval of the Governor and Council of State, may enter into leases of lands and waters for State parks, State lakes, and recreational purposes.

(d), (e) Repealed by Session Laws 2003-284, s. 35.1(a), effective July 1, 2003.

(f) The authority granted to the Department under this section is in addition to any authority granted to the Department under any other provision of law.

**"§ 113-34.1. Power to acquire conservation lands not included in the State Parks System.**

The Department of Administration may acquire and allocate to the Department of Environment and Natural Resources for management by the Division of Parks and Recreation lands that the Department of Environment and Natural Resources finds are important for conservation purposes but which are not included in the State Parks System. Lands acquired pursuant to this section are not subject to Article 2C of Chapter 113 of the General Statutes and may be traded or transferred as necessary to protect, develop, and manage the Mountains to Sea State Park Trail, other State parks, or other conservation lands. This section does not expand the power granted to the Department of Environment and Natural Resources under G.S. 113-34(a) to acquire land by condemnation.

**"§ 113-35. ~~State timber may be sold by Department; forest nurseries; control~~Control over State parks; operation of public service facilities; concessions to private concerns; authority to charge fees and adopt rules.**

(a) ~~Timber and other products of State forests may be sold, cut, and removed under rules of the Department. The Department may establish and operate forest tree nurseries and forest tree seed orchards. Forest tree seedlings and seed from these nurseries and seed orchards may be sold to landowners of the State for purposes of forestation under rules adopted by the Department. When the Secretary determines that a surplus of seedlings or seed exists, this surplus may be sold, and the sale shall be in conformity with the following priority of sale: first, to agencies of the federal government for planting in the State of North Carolina; second, to commercial nurseries and nurserymen within this State; and third, without distinction, to federal agencies, to other states, and to recognized research organizations for planting either~~

~~within or outside of this State.~~ The Department shall make reasonable rules governing the use by the public of ~~State forests,~~ State ~~parks, State lakes, game refuges, and public shooting grounds~~parks and State lakes under its charge. These rules shall be posted in conspicuous places on and adjacent to the properties of the State and at the courthouse of the county or counties in which the properties are located. A violation of these rules is punishable as a Class 3 misdemeanor.

(a1) The Department may adopt rules under which the Secretary may issue a special-use permit authorizing the use of pyrotechnics in State parks in connection with public exhibitions. The rules shall require that experts supervise the use of pyrotechnics and that written authorization for the use of pyrotechnics be obtained from the board of commissioners of the county in which the pyrotechnics are to be used, as provided in G.S. 14-410. The Secretary may impose any conditions on a permit that the Secretary determines to be necessary to protect public health, safety, and welfare. These conditions shall include a requirement that the permittee execute an indemnification agreement with the Department and obtain general liability insurance covering personal injury and property damage that may result from the use of pyrotechnics with policy limits determined by the Secretary.

(b) The Department may construct, operate, and maintain within the ~~State forests,~~ State parks, State lakes, and other areas under its charge suitable public service facilities and conveniences, and may charge and collect reasonable fees for the use of these facilities and conveniences. The Department may also charge and collect reasonable fees for each of the following:

(1) The erection, maintenance, and use of docks, piers, and any other structures permitted in or on State lakes under rules adopted by the Department.

(2) ~~Hunting privileges on State forests and fishing~~Fishing privileges in ~~State forests, State parks,~~parks and State lakes, provided that these privileges shall be extended only to holders of State hunting and fishing licenses who comply with all State game and fish laws.

(3) Vehicle access for off-road driving at the beach at Fort Fisher State Recreation Area.

(4) The erection, maintenance, and use of a marina at Carolina Beach.

(b1) Members of the public who pay a fee under subsection (b) of this section for access to Fort Fisher State Recreation Area may have 24-hour access to Fort Fisher State Recreation Area from September 15 through March 15 of each year.

(c) The Department may make reasonable rules for the operation and use of boats or other craft on the surface of the waters under its charge. The Department may charge and collect reasonable fees for the use of boats and other watercraft that are purchased and maintained by the Department; however, the Department shall not charge a fee for the use or operation of any other boat or watercraft on these waters.

(d) The Department may grant to private individuals or companies concessions for operation of public service facilities for such periods and upon such conditions as the Department deems to be in the public interest. The Department may adopt reasonable rules for the regulation of the use by the public of the lands and waters under its charge and of the public service facilities and conveniences authorized under this section. A violation of these rules is punishable as a Class 3 misdemeanor.

(e) The authority granted to the Department under this section is in addition to any authority granted to the Department under any other provision of law.

~~**"§ 113-36. Applications of proceeds from sale of products.**~~

~~(a) Application of Proceeds Generally. Except as provided in this section, all money received from the sale of wood, timber, minerals, or other products from the State forests shall be paid into the State treasury and to the credit of the Department; and such money shall be expended in carrying out the purposes of this Article and of forestry in general, under the direction of the Secretary.~~

~~(b) Tree Cone and Seed Purchase Fund. A percentage of the money obtained from the sale of seedlings and remaining unobligated at the end of a fiscal year, shall be placed in a special, continuing and nonreverting Tree Cone and Seed Purchase Fund under the control and direction of the Secretary. The percentage of the sales placed in the fund shall not exceed ten percent (10%). At the beginning of each fiscal year, the Secretary shall select the percentage for the upcoming fiscal year depending upon the anticipated costs of tree cones and seeds which the department must purchase. Money in this fund shall not be allowed to accumulate in excess~~

~~of the amount needed to purchase a four year supply of tree cones and seed, and shall be used for no purpose other than the purchase of tree cones and seeds.~~

~~(c) Forest Seedling Nursery Program Fund. The Forest Seedling Nursery Program Fund is created within the Department of Environment and Natural Resources, Division of Forest Resources, as a special revenue fund. Except as provided in subsection (b) of this section, this Fund shall consist of receipts from the sale of seed and seedlings as authorized in G.S. 113-35 and any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in the Forest Seedling Nursery Program.~~

~~(d) Bladen Lakes State Forest Fund. The Bladen Lakes State Forest Fund is created within the Department of Environment and Natural Resources, Division of Forest Resources, as a special revenue fund. This Fund shall consist of receipts from the sale of forest products from Bladen Lakes State Forest as authorized in G.S. 113-35 and any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in the Bladen Lakes State Forest.~~

**"§ 113-37. Legislative authority necessary for payment.**

Nothing in this Article shall operate or be construed as authority for the payment of any money out of the State treasury for the purchase of lands or for other purposes unless by appropriation for said purpose by the General Assembly.

**~~"§ 113-38. Distribution of funds from sale of forestlands.~~**

~~All funds paid by the National Forest Commission, by authority of act of Congress, approved May 23, 1908 (35 Stat., 260), for the Counties of Avery, Buncombe, Burke, Craven, Haywood, Henderson, Hyde, Jackson, Macon, Montgomery, Swain, Transylvania, Watauga, and Yancey, shall be paid to the proper county officers, and said funds shall, when received, be placed in the account of the general county funds: Provided, however, that in Buncombe County said funds shall be entirely for the use and benefit of the school district or districts in which said national forestlands shall be located.~~

~~All funds which may hereafter come into the hands of the State Treasurer from like sources shall be likewise distributed.~~

**"§ 113-39. License fees for hunting and fishing on government-owned property unaffected.**

No wording in G.S. 113-307.1(a), or any other North Carolina statute or law, or special act, shall be construed to abrogate the vested rights of the State of North Carolina to collect fees for license for hunting and fishing on any government-owned land or in any government-owned stream in North Carolina including the license for county, State or nonresident hunters or fishermen; or upon any lands or in any streams hereafter acquired by the federal government within the boundaries of the State of North Carolina. The lands and streams within the boundaries of the Great Smoky Mountains National Park to be ~~excepted~~ exempt from this section.

**"§ 113-40. Donations of property for ~~forestry or~~ park purposes; agreements with federal government or agencies for acquisition.**

The Department is hereby authorized and empowered to accept gifts, donations or contributions of land suitable for ~~forestry or~~ park purposes and to enter into agreements with the federal government or other agencies for acquiring by lease, purchase or otherwise such lands as in the judgment of the Department are desirable for ~~State forests or~~ State parks.

**"§ 113-41. Expenditure of funds for development, etc.; disposition of products from lands; rules.**

When lands are acquired or leased under G.S. 113-40, the Department is hereby authorized to make expenditures from any funds not otherwise obligated, for the management, development and utilization of such areas; to sell or otherwise dispose of products from such lands, and to make such rules as may be necessary to carry out the purposes of G.S. 113-40 to 113-44.

**"§ 113-42. Disposition of revenues received from lands acquired.**

All revenues derived from lands now owned or later acquired under the provisions of G.S. 113-40 to 113-44 shall be set aside for the use of the Department in acquisition, management, development and use of such lands until all obligations incurred have been paid

in full. Thereafter, fifty percent (50%) of all net profits accruing from the administration of such lands shall be applicable for such purposes as the General Assembly may prescribe, and fifty percent (50%) shall be paid into the school fund to be used in the county or counties in which lands are located.

"**§ 113-43. State not obligated for debts created hereunder.**

Obligations for the acquisition of land incurred by the Department under the authority of G.S. 113-40 to 113-44 shall be paid solely and exclusively from revenues derived from such lands and shall not impose any liability upon the general credit and taxing power of the State.

"**§ 113-44. Disposition of lands acquired.**

The Department shall have full power and authority to sell, exchange or lease lands under its jurisdiction when in its judgment it is advantageous to the State to do so in the highest orderly development and management of ~~State forests and~~ State parks: Provided, however, said sale, lease or exchange shall not be contrary to the terms of any contract which it has entered into."

**SECTION 13.25.(o)** Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 71.

"Acquisition and Control of State Forests.

"**§ 106-840. Policy and plan to be inaugurated by Department of Agriculture and Consumer Services.**

(a) In this Article, unless the context requires otherwise, "Department" means the Department of Agriculture and Consumer Services and "Commissioner" means Commissioner of Agriculture.

(b) The Department shall inaugurate the following policy and plan looking to the cooperation with private and public forest owners in this State insofar as funds may be available through legislative appropriation, gifts of money or land, or such cooperation with landowners and public agencies as may be available:

(1) The extension of the forest fire prevention organization to all counties in the State needing such protection.

(2) To cooperate with federal and other public agencies in the restoration of forest growth on land unwisely cleared and subsequently neglected.

(3) To furnish trained and experienced experts in forest management, to inspect private forestlands and to advise with forest landowners with a view to the general observance of recognized and practical rules of growing, cutting, and marketing timber. The services of such trained experts of the Department must naturally be restricted to those landowners who agree to carry out so far as possible the recommendations of said Department.

(4) To prepare and distribute printed and other material for the use of teachers and club leaders and to provide instruction to schools and clubs and other groups of citizens in order to train the younger generation in the principles of wise use of our forest resources.

(5) To acquire small areas of suitable land in the different regions of the State on which to establish small, model forests which shall be developed and used by the said Department as State demonstration forests for experiment and demonstration in forest management.

"**§ 106-841. Growing of timber on unused State lands authorized.**

The Department of Administration may allocate to the Department, for management as a State forest, any vacant and unappropriated lands, any marshlands or swamplands, and any other lands title to which is vested in the State or in any State agency or institution, where such lands are not being otherwise used and are not suitable for cultivation. Lands under the supervision of the Wildlife Resources Commission and designated and in use as wildlife management areas, refuges, or fishing access areas and lands used as research stations shall not be subject to the provisions of this section. The Department shall plant timber-producing trees on all lands allocated to it for that purpose by the Department of Administration. The Commissioner may contract with the appropriate prison authorities for the furnishing, upon such conditions as may be agreed upon from time to time between such prison authorities and the Commissioner, of prison labor for use in the planting, cutting, and removal of timber from State forests which are under the management of the Department.

"**§ 106-842. Use of lands acquired by counties through tax foreclosures as demonstration forests.**

The boards of county commissioners of the various counties of North Carolina are herewith authorized to turn over to the said Department title to such tax-delinquent lands as may have been acquired by said counties under tax sale and as in the judgment of the Commissioner may be suitable for the purposes named in subdivision (5) of subsection (b) of G.S. 106-840.

"**§ 106-843. Procedure for acquisition of delinquent tax lands from counties.**

In the carrying out of the provisions of G.S. 106-842, the several boards of county commissioners shall furnish forthwith on written request of the Department a complete list of all properties acquired by the county under tax sale and which have remained unredeemed for a period of two years or more. On receipt of this list, the Commissioner shall have the lands examined and, if any one or more of these properties is in the Commissioner's judgment suitable for the purposes set forth in G.S. 106-842, request shall be made to the county commissioners for the acquisition of such land by the Department at a price not to exceed the actual amount of taxes due without penalties. On receipt of this request, the county commissioners shall make permanent transfer of such tract or tracts of land to the Department through fee-simple deed or other legal transfer, said deed to be approved by the Attorney General of North Carolina, and shall then receive payment from the Department as above outlined.

"**§ 106-844. Purchase of lands for use as demonstration forests.**

Where no suitable tax-delinquent lands are available and, in the judgment of the Department, the establishment of a demonstration forest is advisable, the Department may purchase sufficient land for the establishment of such a demonstration forest at a fair and agreed-upon price, the deed for such land to be subject to approval of the Attorney General, but nothing in G.S. 106-840 to G.S. 106-845 shall allow the Department to acquire land under the right of eminent domain.

"**§ 106-845. Forest management appropriation.**

Necessary funds for carrying out the provisions of G.S. 106-840 and G.S. 106-842 to G.S. 106-845 shall be set up in the regular budget as an item entitled "forest management."

"**§ 106-846. Power to acquire lands as State forests; donations or leases by United States; leases for recreational purposes.**

(a) The Governor may, upon recommendation of the Department, accept gifts of land to the State to be held, protected, and administered by the Department as State forests, and to be used so as to demonstrate the practical utility of timber culture and water conservation, and as refuges for game. The gifts of land must be absolute except in cases where the mineral interest on the land has previously been sold. The Department may purchase lands in the name of the State, suitable chiefly for the production of timber, as State forests, for experimental, demonstration, educational, and protection purposes, using for these purposes any special appropriations or funds available. The Department may acquire by condemnation under the provisions of Chapter 40A of the General Statutes areas of land in different sections of the State that may in the opinion of the Department be necessary for the purpose of establishing or developing State forests and other areas and developments essential to the effective operation of the State forestry activities under its charge. Condemnation proceedings shall be instituted and prosecuted in the name of the State, and any property so acquired shall be administered, developed, and used for experiment and demonstration in forest management, for public recreation, and for other purposes authorized or required by law. Before any action or proceeding under this section can be exercised, the approval of the Governor and Council of State shall be obtained and filed with the clerk of the superior court in the county or counties where the property is located. The Attorney General shall ensure that all deeds to the State for land acquired under this section are properly executed before the gift is accepted or payment of the purchase money is made.

(b) The Department may accept as gifts to the State any forest and submarginal farmland acquired by the federal government that is suitable for the purpose of creating and maintaining State forests or enter into longtime leases with the federal government for the areas and administer them with funds secured from their administration in the best interest of longtime public use, supplemented by any appropriations made by the General Assembly. The Department may segregate revenue derived from State hunting and fishing licenses, use permits, and concessions, and other proper revenue secured through the administration of State

forests, to be deposited in the State treasury to the credit of the Department to be used for the administration of these areas.

(c) The authority granted to the Department under this section is in addition to any authority granted to the Department under any other provision of law.

"**§ 106-847. State timber may be sold by Department; forest nurseries; operation of public service facilities; concessions to private concerns; authority to charge fees and adopt rules.**

(a) Timber and other products of State forests may be sold, cut, and removed under rules of the Department. The Department may establish and operate forest tree nurseries and forest tree seed orchards. Forest tree seedlings and seed from these nurseries and seed orchards may be sold to landowners of the State for purposes of forestation under rules adopted by the Department. When the Commissioner determines that a surplus of seedlings or seed exists, this surplus may be sold, and the sale shall be in conformity with the following priority of sale: first, to agencies of the federal government for planting in the State of North Carolina; second, to commercial nurseries and nurserymen within this State; and third, without distinction, to federal agencies, to other states, and to recognized research organizations for planting either within or outside of this State. The Department shall make reasonable rules governing the use by the public of State forests under its charge. These rules shall be posted in conspicuous places on and adjacent to the properties of the State and at the courthouse of the county or counties in which the properties are located. A violation of these rules is punishable as a Class 3 misdemeanor.

(b) The Department may construct, operate, and maintain within the State forests and other areas under its charge suitable public service facilities and conveniences, and may charge and collect reasonable fees for the use of these facilities and conveniences. The Department may also charge and collect reasonable fees for hunting privileges on State forests and fishing privileges in State forests, provided that these privileges shall be extended only to holders of State hunting and fishing licenses who comply with all State game and fish laws.

(c) The Department may grant to private individuals or companies concessions for operation of public service facilities for such periods and upon such conditions as the Department deems to be in the public interest. The Department may adopt reasonable rules for the regulation of the use by the public of the lands and waters under its charge and of the public service facilities and conveniences authorized under this section. A violation of these rules is punishable as a Class 3 misdemeanor.

(d) The authority granted to the Department under this section is in addition to any authority granted to the Department under any other provision of law.

"**§ 106-848. Applications of proceeds from sale of products.**

(a) Application of Proceeds Generally. – Except as provided in this section, all money received from the sale of wood, timber, minerals, or other products from the State forests shall be paid into the State treasury and to the credit of the Department; and such money shall be expended in carrying out the purposes of this Article and of forestry in general, under the direction of the Commissioner.

(b) Tree Cone and Seed Purchase Fund. – A percentage of the money obtained from the sale of seedlings and remaining unobligated at the end of a fiscal year shall be placed in a special, continuing, and nonreverting Tree Cone and Seed Purchase Fund under the control and direction of the Commissioner. The percentage of the sales placed in the Fund shall not exceed ten percent (10%). At the beginning of each fiscal year, the Commissioner shall select the percentage for the upcoming fiscal year depending upon the anticipated costs of tree cones and seeds which the Department must purchase. Money in this Fund shall not be allowed to accumulate in excess of the amount needed to purchase a four-year supply of tree cones and seed and shall be used for no purpose other than the purchase of tree cones and seeds.

(c) Forest Seedling Nursery Program Fund. – The Forest Seedling Nursery Program Fund is created within the Department of Environment and Natural Resources, Division of Forest Resources, as a special revenue fund. Except as provided in subsection (b) of this section, this Fund shall consist of receipts from the sale of seed and seedlings as authorized in G.S. 106-847 and any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in the Forest Seedling Nursery Program.

(d) Bladen Lakes State Forest Fund. – The Bladen Lakes State Forest Fund is created within the Department of Environment and Natural Resources, Division of Forest Resources, as a special revenue fund. This Fund shall consist of receipts from the sale of forest products from Bladen Lakes State Forest as authorized in G.S. 106-847 and any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in the Bladen Lakes State Forest.

"**§ 106-849. Legislative authority necessary for payment.**

Nothing in this Article shall operate or be construed as authority for the payment of any money out of the State treasury for the purchase of lands or for other purposes unless by appropriation for said purpose by the General Assembly.

"**§ 106-850. Distribution of funds from sale of forestlands.**

All funds paid by the National Forest Commission, by authority of an act of Congress, approved May 23, 1908, (35 Stat. 260), for the Counties of Avery, Buncombe, Burke, Craven, Haywood, Henderson, Hyde, Jackson, Macon, Montgomery, Swain, Transylvania, Watauga, and Yancey, shall be paid to the proper county officers, and said funds shall, when received, be placed in the account of the general county funds: Provided, however, that in Buncombe County said funds shall be entirely for the use and benefit of the school administrative unit in which said national forestlands shall be located.

All funds which may hereafter come into the hands of the State Treasurer from like sources shall be likewise distributed.

"**§ 106-851. License fees for hunting and fishing on government-owned property unaffected.**

No wording in G.S. 113-307.1(a), or any other North Carolina public, local, or special act, shall be construed to abrogate the vested rights of the State of North Carolina to collect fees for license for hunting and fishing on any government-owned land or in any government-owned stream in North Carolina including the license for county, State, or nonresident hunters or fishermen; or upon any lands or in any streams hereafter acquired by the federal government within the boundaries of the State of North Carolina. The lands and streams within the boundaries of the Great Smoky Mountains National Park are exempt from this section.

"**§ 106-852. Donations of property for forestry purposes; agreements with federal government or agencies for acquisition.**

The Department may accept gifts, donations, or contributions of land suitable for forestry purposes and to enter into agreements with the federal government or other agencies for acquiring by lease, purchase, or otherwise such lands as in the judgment of the Department are desirable for State forests.

"**§ 106-853. Expenditure of funds for development, etc.; disposition of products from lands; rules.**

When lands are acquired or leased under G.S. 106-852, the Department may make expenditures from any funds not otherwise obligated, for the management, development, and utilization of such areas; to sell or otherwise dispose of products from such lands, and to make such rules as may be necessary to carry out the purposes of G.S. 106-852 to G.S. 106-856.

"**§ 106-854. Disposition of revenues received from lands acquired.**

All revenues derived from lands now owned or later acquired under the provisions of G.S. 106-852 to G.S. 106-856 shall be set aside for the use of the Department in acquisition, management, development, and use of such lands until all obligations incurred have been paid in full. Thereafter, fifty percent (50%) of all net profits accruing from the administration of such lands shall be applicable for such purposes as the General Assembly may prescribe and fifty percent (50%) shall be paid into the school fund to be used in the county or counties in which lands are located.

"**§ 106-855. State not obligated for debts created hereunder.**

Obligations for the acquisition of land incurred by the Department under the authority of G.S. 106-852 to G.S. 106-856 shall be paid solely and exclusively from revenues derived from such lands and shall not impose any liability upon the general credit and taxing power of the State.

"**§ 106-856. Disposition of lands acquired.**

The Department shall have full power and authority to sell, exchange, or lease lands under its jurisdiction when in its judgment it is advantageous to the State to do so in the highest

orderly development and management of State forests: Provided, however, said sale, lease, or exchange shall not be contrary to the terms of any contract which it has entered into."

**SECTION 13.25.(p)** Article 4 of Chapter 113 of the General Statutes (G.S. 113-51, 113-52, 113-53.1, 113-54, 113-55, 113-55.1, 113-55.2, 113-56, 113-56.1, 113-57, 113-58, 113-59, 113-60, 113-60.1, 113-60.2, and 113-60.3) is recodified as a new Article 72 of Chapter 106 of the General Statutes, G.S. 106-860 through G.S. 106-875.

**SECTION 13.25.(q)** Article 72 of Chapter 106 of the General Statutes, as recodified under subsection (p) of this section, reads as rewritten:

"Article 72.

"Protection and Development of Forests; Fire Control.

**"§ 106-860. Powers of Department of ~~Environment and Natural Resources.~~Agriculture and Consumer Services.**

(a) The Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services may take such action as it may deem necessary to provide for the prevention and control of forest fires in any and all parts of this State, and it is hereby authorized to enter into an agreement with the Secretary of Agriculture of the United States for the protection of the forested watersheds of streams in this State.

(b) In this Article, unless the context requires otherwise:

(1) "Commissioner" means the Commissioner of Agriculture.

~~(1)~~(2) "Department" means the Department of ~~Environment and Natural Resources.~~Agriculture and Consumer Services.

~~(2) "Secretary" means the Secretary of Environment and Natural Resources.~~

**"§ 106-861. Forest rangers.**

The ~~Secretary~~ Commissioner may appoint one county forest ranger and one or more deputy forest rangers in each county of the State in which, after careful investigation, the amount of forestland and the risks from forest fires shall, in his judgment, warrant the establishment of a forest fire organization.

**"§ 106-862. Forest laws defined.**

The forest laws consist of:

(1) G.S. 14-136 to G.S. 14-140;

(2) Articles ~~2, 4, 4A, 4C, and 6A~~71 through 79 of this Chapter;

(3) G.S. 77-13 and G.S. 77-14;

(4) Other statutes enacted for the protection of forests and woodlands from fire, insects, or disease and concerning obstruction of streams and ditches in forests and woodlands; and

(5) Regulations and ordinances adopted under the authority of the above statutes.

**"§ 106-863. Duties of forest rangers; payment of expenses by State and counties.**

Forest rangers shall have charge of measures for controlling forest fires, protection of forests from pests and diseases, and the development and improvement of the forests for maximum production of forest products; shall post along highways and in other conspicuous places copies of the forest fire laws and warnings against fires, which shall be supplied by the ~~Secretary;~~Commissioner; shall patrol and man lookout towers and other points during dry and dangerous seasons under the direction of the ~~Secretary;~~Commissioner; and shall perform such other acts and duties as shall be considered necessary by the ~~Secretary~~ Commissioner in the protection, development and improvement of the forested area of each of the counties within the State. No county may be held liable for any part of the expenses thus incurred unless specifically authorized by the board of county commissioners under prior written agreement with the ~~Secretary;~~Commissioner; appropriations for meeting the county's share of such expenses so authorized by the board of county commissioners shall be provided annually in the county budget. For each county in which financial participation by the county is authorized, the ~~Secretary~~ Commissioner shall keep or cause to be kept an itemized account of all expenses thus incurred and shall send such accounts periodically to the board of county commissioners of said county; upon approval by the board of the correctness of such accounts, the county commissioners shall issue or cause to be issued a warrant on the county treasury for the payment of the county's share of such expenditures, said payment to be made within one month after receipt of such statement from the ~~Secretary.~~Commissioner. Appropriations made by a county for the purposes set out in Articles ~~4, 4A, 4C and 6A~~72, 73, 75, and 79 of this Chapter in the cooperative forest protection, development and improvement work are not to replace

State and federal funds which may be available to the ~~Secretary~~ Commissioner for the work in said county, but are to serve as a supplement thereto. Funds appropriated to the Department for a fiscal year for the purposes set out in Articles ~~4, 4A, 4C and 6A~~72, 73, 75, and 79 of this Chapter shall not be expended in a county unless that county shall contribute at least twenty-five percent (25%) of the total cost of the forestry program.

**"§ 106-864. Powers of forest rangers to prevent and extinguish fires; authority to issue citations and warning tickets.**

(a) Forest rangers shall prevent and extinguish forest fires and shall have control and direction of all persons and equipment while engaged in the extinguishing of forest fires. During a season of drought, the ~~Secretary~~ Commissioner or his designate may establish a fire patrol in any district, and in case of fire in or threatening any forest or woodland, the forest ranger shall attend forthwith and use all necessary means to confine and extinguish such fire. The forest ranger or deputy forest ranger may summon any resident between the ages of 18 and 45 years, inclusive, to assist in extinguishing fires and may require the use of crawler tractors and other property needed for such purposes; any person so summoned and who is physically able who refuses or neglects to assist or to allow the use of equipment and such other property required shall be guilty of a Class 3 misdemeanor and upon conviction shall only be subject to a fine of not less than fifty dollars ($50.00) nor more than one hundred dollars ($100.00). No action for trespass shall lie against any forest ranger, deputy forest ranger, or person summoned by him for crossing lands, backfiring, burning out or performing his duties as a forest ranger or deputy forest ranger.

(b) Forest rangers are authorized to issue and serve citations under the terms of G.S. 15A-302 and warning tickets under the terms of ~~G.S. 113-55.2~~G.S. 106-866 for offenses under the forest laws. This subsection may not be interpreted to confer the power of arrest on forest rangers, and does not make them criminal justice officers within the meaning of G.S. 17C-2.

**"§ 106-865. Powers of forest law-enforcement officers.**

The ~~Secretary~~ Commissioner is authorized to appoint as many forest law-enforcement officers as he deems necessary to carry out the forest law-enforcement responsibilities of the Department. Forest law-enforcement officers shall have all the powers and the duties of a forest ranger enumerated in ~~G.S. 113-54 and 113-55.~~G.S. 106-863 and G.S. 106-864. Forest law-enforcement officers shall, in addition to their other duties, have the powers of peace officers to enforce the forest laws. Any forest law-enforcement officer may arrest, without warrant, any person or persons committing any crime in his presence or whom such officer has probable cause for believing has committed a crime in his presence and bring such person or persons forthwith before a district court or other officer having jurisdiction. Forest law-enforcement officers shall also have authority to obtain and serve warrants including warrants for violation of any duly promulgated rule of the Department.

**"§ 106-866. Warning tickets for violations of the forest laws.**

(a) To encourage the cooperation of the public in achieving the objectives of the forest laws, the ~~Secretary~~ Commissioner may provide for the issuance of warning tickets instead of the initiation of criminal prosecution by forest rangers and forest law-enforcement officers. Issuance of the warning tickets shall be in accordance with criteria administratively promulgated by the ~~Secretary~~ Commissioner within the requirements of this section. These criteria are exempt from Article 2A of Chapter 150B of the General Statutes.

(b) No warning ticket may be issued unless all of the following conditions are met:

(1) The forest ranger or the forest law-enforcement officer must be convinced that the offense was not committed intentionally.

(2) The offense is not one, or a type of offense, for which the ~~Secretary~~ Commissioner has prohibited the issuance of warning tickets.

(3) At the time of the violation it was not reasonably foreseeable that the conduct of the offender could result in any significant destruction of forests or woodlands or constitute a hazard to the public.

(c) A warning ticket may not be issued if the offender has previously been charged with, or issued a warning ticket for, the same or a similar offense within the preceding three years. A list of persons who have been issued warning tickets under this section within the preceding three years shall be maintained and periodically updated by the ~~Secretary.~~Commissioner.

(d) This section does not entitle any person who has committed an offense to the right to be issued a warning ticket, and the issuance of a warning ticket does not prohibit the later initiation of criminal prosecution for the same offense for which the warning ticket was issued.

**"§ 106-867. Compensation of forest rangers.**

Forest rangers shall receive compensation from the Department at a reasonable rate to be fixed by said Department for the time actually engaged in the performance of their duties; and reasonable expenses for equipment, transportation, or food supplies incurred in the performance of their duties, according to an itemized statement to be rendered the ~~Secretary~~ Commissioner every month, and approved by him. Forest rangers shall render to the ~~Secretary~~ Commissioner a statement of the services rendered by the men employed by them or their deputy rangers, as provided in this Article, within one month of the date of service, which bill shall show in detail the amount and character of the service performed, the exact duration thereof, the name of each person employed, and any other information required by the ~~Secretary.~~Commissioner. If said bill be duly approved by the ~~Secretary,~~Commissioner, it shall be paid by direction of the Department out of any funds provided for that purpose.

**"§ 106-868. Overtime compensation for forest fire fighting.**

The Department shall, within funds appropriated to the Department, provide overtime compensation to the professional employees of the Division of Forest Resources involved in fighting forest fires.

**"§ 106-869. Woodland defined.**

For the purposes of this Article, woodland is taken to include all forest areas, both timber and cutover land, and all second-growth stands on areas that have at one time been cultivated.

**"§ 106-870. Misdemeanor to destroy posted forestry notice.**

Any person who shall maliciously or willfully destroy, deface, remove, or disfigure any sign, poster, or warning notice, posted by order of the ~~Secretary,~~Commissioner, under the provisions of this Article, or any other act which may be passed for the purpose of protecting and developing the forests in this State, shall be guilty of a Class 3 misdemeanor.

**"§ 106-871. Cooperation between counties and State in forest protection and development.**

The board of county commissioners of any county is hereby authorized and empowered to cooperate with the Department in the protection, reforestation, and promotion of forest management of their own forests within their respective counties, and to appropriate and pay out of the funds under their control such amount as is provided in ~~G.S. 113-54.~~G.S. 106-863.

**"§ 106-872. Instructions on forest preservation and development.**

(a) It shall be the duty of all district, county, township rangers, and all deputy rangers provided for in this Chapter to distribute in all of the public schools and high schools of the county in which they are serving as such fire rangers all such tracts, books, periodicals and other literature that may, from time to time, be sent out to such rangers by the State and federal forestry agencies touching or dealing with forest preservation, development, and forest management.

(b) It shall be the duty of the various rangers herein mentioned under the direction of the ~~Secretary,~~Commissioner, and the duty of the teachers of the various schools, both public and high schools, to keep posted at some conspicuous place in the various classrooms of the school buildings such appropriate bulletins and posters as may be sent out from the forestry agencies herein named for that purpose and keep the same constantly before their pupils; and said teachers and rangers shall prepare lectures or talks to be made to the pupils of the various schools on the subject of forest fires, their origin and their destructive effect on the plant life and tree life of the forests of the State, the development and scientific management of the forests of the State, and shall be prepared to give practical instruction to their pupils from time to time and as often as they shall find it possible so to do.

**"§ 106-873. Authority of Governor to close forests and woodlands to hunting, fishing and trapping.**

During periods of protracted drought or when other hazardous fire conditions threaten forest and water resources and appear to require extraordinary precautions, the Governor of the State, upon the joint recommendation of the ~~Secretary~~ Commissioner and the Executive Director of the North Carolina Wildlife Resources Commission, may by official proclamation:

(1) Close any or all of the woodlands and inland waters of the State to hunting, fishing and trapping for the period of the emergency.

(2) Forbid for the period of the emergency the building of campfires and the burning of brush, grass or other debris within 500 feet of any woodland in any county, counties, or parts thereof.

(3) Close for the period of the emergency any or all of the woodlands of the State to such other persons and activities as he deems proper under the circumstances, except to the owners or tenants of such property and their agents and employees, or persons holding written permission from any owner or his recognized agent to enter thereon for any lawful purpose other than hunting, fishing or trapping.

**"§ 106-874. Publication of proclamation; annulment thereof.**

Such proclamation shall become effective 24 hours after certified time of issue, and shall be published in such newspapers and posted in such places and in such manner as the Governor may direct. It shall be annulled in the same manner by another proclamation by the Governor when he is satisfied, upon joint recommendation of the ~~Secretary~~ Commissioner and the Executive Director of the North Carolina Wildlife Resources Commission, that the period of the emergency has passed.

**"§ 106-875. Violation of proclamation a misdemeanor.**

Any person, firm or corporation who enters upon any woodlands or inland waters of the State for the purpose of hunting, fishing or trapping, or who builds a campfire or burns brush, grass or other debris within 500 feet of any woodland, after a proclamation has been issued by the Governor forbidding such activities, or who violates any other provisions of the Governor's proclamation with regard to permissible activities in closed woodlands shall be guilty of a Class 1 misdemeanor."

**SECTION 13.25.(r)** Article 4A of Chapter 113 of the General Statutes (G.S. 113-60.4, 113-60.5, 113-60.6, 113-60.7, 113-60.8, 113-60.9, 113-60.10) is recodified as a new Article 73 of Chapter 106 of the General Statutes, G.S. 106-880 through G.S. 106-886.

**SECTION 13.25.(s)** Article 73 of Chapter 106 of the General Statutes, as recodified under subsection (r) of this section, reads as rewritten:

"Article 73.

"Protection of Forest Against Insect Infestation and Disease.

**"§ 106-880. Purpose and intent.**

(a) The purpose of this Article is to place within the Department of ~~Environment and Natural Resources,~~Agriculture and Consumer Services the authority and responsibility for investigating insect infestations and disease infections which affect stands of forest trees, the devising of control measures for interested landowners and others, and taking measures to control, suppress, or eradicate outbreaks of forest insect pests and tree diseases.

(b) In this Article, unless the context requires otherwise, the expression "Department" means the Department of ~~Environment and Natural Resources; "Secretary"~~Agriculture and Consumer Services, and "Commissioner" means the ~~Secretary of Environment and Natural Resources.~~Commissioner of Agriculture.

**"§ 106-881. Authority of the Department.**

The authority and responsibility for carrying out the purpose, intent and provisions of this Article are hereby delegated to the Department. The administration of the provisions of this Article shall be under the general supervision of the ~~Secretary.~~Commissioner. ~~The provisions of this Article shall not abrogate or change any power or authority as may be vested in the North Carolina Department of Agriculture and Consumer Services under existing statutes.~~

**"§ 106-882. Definitions.**

As used in this Article, unless the context clearly requires otherwise:

(1) "Control zone" means an area of potential or actual infestation or infection, boundaries of which are fixed and clearly described in a manner to definitely identify the zone.

(2) "Forestland" means land on which forest trees occur.

(3) "Forest trees" means only those trees which are a part and constitute a stand of potential immature or mature commercial timber trees, provided that the term "forest trees" shall be deemed to include shade trees of any species around houses, along highways, and within cities and towns, if the same constitute insect and disease menaces to nearby timber trees or timber stands.

(4) "Infection" means attack by any disease affecting forest trees which is declared by the ~~Secretary~~ Commissioner to be dangerously injurious thereto.

(5) "Infestation" means attack by means of any insect, which is by the ~~Secretary~~ Commissioner declared to be dangerously injurious to forest trees.

**"§ 106-883. Action against insects and diseases.**

Whenever the ~~Secretary,~~Commissioner, or his agent, determines that there exists an infestation of forest insect pests or an infection of forest tree diseases, injurious or potentially injurious to the timber or forest trees within the State of North Carolina, and that said infestation or infection is of such a character as to be a menace to the timber or forest growth of the State, the ~~Secretary~~ Commissioner shall declare the existence of a zone of infestation or infection and shall declare and fix boundaries so as to definitely describe and identify said zone of infestation or infection, and the ~~Secretary~~ Commissioner or his agent shall give notice in writing by mail or otherwise to each forest landowner within the designated control zone advising him of the nature of the infestation or infection, the recommended control measures, and offer him technical advice on methods of carrying out controls.

**"§ 106-884. Authority of ~~Secretary~~ Commissioner and his agents to go upon private land within control zones.**

The ~~Secretary~~ Commissioner or his agents shall have the power to go upon the land within any zone of infestation or infection and take measures to control, suppress or eradicate the insect, infestation or disease infection. If any person refuses to allow the ~~Secretary~~ Commissioner or his agents to go upon his land, or if any person refuses to adopt adequate means to control or eradicate the insect, infestation or disease infection, the ~~Secretary~~ Commissioner may apply to the superior court of the county in which the land is located for an injunction or other appropriate remedy to restrain the landowner from interfering with the ~~Secretary~~ Commissioner or his agents in entering the control zone and adopting measures to control, suppress or eradicate the insect infestation or disease infection, provided the cost of court or control thereof shall not be a liability against the forest landowner nor constitute a lien upon the real property of such infested area.

**"§ 106-885. Cooperative agreements.**

In order to more effectively carry out the purposes of this Article, the Department is ~~hereby~~ authorized to enter into cooperative agreement with the federal government and other public and private agencies, and with the owners of forestland.

**"§ 106-886. Annulment of control zone.**

Whenever the ~~Secretary~~ Commissioner determines that the forest insect or disease control work within a designated control zone is no longer necessary or feasible, then the ~~Secretary~~ Commissioner shall declare the zone of infestation or infection no longer pertinent to the purposes of this Article and such zone will then no longer be recognized."

**SECTION 13.25.(t)** Article 4B of Chapter 113 of the General Statutes (G.S. 113-60.11, 113-60.12, 113-60.13, 113-60.14, and 113-60.15) is recodified as a new Article 74 of Chapter 106 of the General Statutes, G.S. 106-890 through G.S. 106-894.

**SECTION 13.25.(u)** G.S. 106-893, as recodified in subsection (t) of this section, reads as rewritten:

**"§ 106-893. Compact Administrator; North Carolina members of advisory committee.**

The ~~Secretary of Environment and Natural Resources~~Commissioner of Agriculture is hereby designated as Compact Administrator for this State and shall consult with like officials of the other member states and shall implement cooperation between such states in forest fire prevention and control.

At some time before the adjournment of each regular session of the General Assembly, the Governor shall choose one person from the membership of the House of Representatives, and shall choose one person from the membership of the Senate, who shall serve on the advisory committee of the Southeastern Interstate Forest Fire Protection Compact as provided for in Article III of said Compact. At the time of the selection of the House and Senate members of such advisory committee, the Governor shall choose one alternate member from the House of Representatives and one from the Senate who shall serve on such advisory committee in case of the death, absence or disability of the regular members so chosen."

**SECTION 13.25.(v)** G.S. 106-894, as recodified in subsection (t) of this section, reads as rewritten:

**"§ 106-894. Agreements with noncompact states.**

The Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services is hereby authorized to enter into written agreements with the State forest fire control agency of any other state or any province of Canada which is party to a regional forest fire protection compact. The provisions of any written agreement entered into pursuant to this Article shall be substantially in the form of the authority heretofore granted under the provisions of this Article, Southeastern Interstate Forest Fire Protection Compact."

**SECTION 13.25.(w)** Article 4C of Chapter 113 of the General Statutes (G.S. 113-60.21, 113-60.22, 113-60.23, 113-60.24, 113-60.25, 113-60.26, 113-60.27, 113-60.28, 113-60.29, 113-60.30, and 113-60.31) is recodified as a new Article 75 of Chapter 106 of the General Statutes, G.S. 106-900 through G.S. 106-910.

**SECTION 13.25.(x)** Article 75 of Chapter 106 of the General Statutes, as recodified by subsection (w) of this section, reads as rewritten:

"Article 75.

"Regulation of Open Fires.

**"§ 106-900. Purpose and findings.**

The purpose of this Article is to regulate certain open burning in order to protect the public from the hazards of forest fires and air pollution and to adapt such regulation to the needs and circumstances of the different areas of North Carolina. The General Assembly finds that open burning in proximity to woodlands must be regulated in all counties to protect against forest fires and air pollution. The General Assembly further finds that in certain counties a high percentage of the land area contains organic soils or forest types which may pose greater problems of forest fire and air pollution controls, and that in counties in which a great amount of land-clearing operations is taking place on these organic soils or these forest types, additional control of open burning is required. The counties subject to the need for additional control are classified as high hazard counties for purpose of this Article.

**"§ 106-901. Definitions.**

As used in this Article:

(1) "Department" means the Department of ~~Environment and Natural Resources.~~Agriculture and Consumer Services.

(2) "Forest ranger" means the county forest ranger or deputy forest ranger designated under ~~G.S. 113-52.~~G.S. 106-861.

(3) "Person" means any individual, firm, partnership, corporation, association, public or private institution, political subdivision, or government agency.

(4) "Woodland" means woodland as defined in ~~G.S. 113-57.~~G.S. 106-869.

**"§ 106-902. High hazard counties; permits required; standards.**

(a) The provisions of this section apply only to the counties of Beaufort, Bladen, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Duplin, Gates, Hyde, Jones, Onslow, Pamlico, Pasquotank, Perquimans, Tyrrell, and Washington which are classified as high hazard counties in accordance with ~~G.S. 113-60.21.~~G.S. 106-900.

(b) It is unlawful for any person to willfully start or cause to be started any fire in any woodland under the protection of the Department or within 500 feet of any such woodland without first having obtained a permit from the Department. Permits for starting fires may be obtained from forest rangers or other agents authorized by the county forest ranger to issue such permits in the county in which the fire is to be started. Such permits shall be issued by the ranger or other agent unless permits for the area in question have been prohibited or cancelled in accordance with ~~G.S. 113-60.25 or 113-60.27.~~G.S. 106-904 or G.S. 106-906.

(c) It is unlawful for any person to willfully burn any debris, stumps, brush or other flammable materials resulting from ground clearing activities and involving more than five contiguous acres, regardless of the proximity of the burning to woodland and on which such materials are placed in piles or windrows without first having obtained a special permit from the Department. Areas less than five acres in size will require a regular permit in accordance with ~~G.S. 113-60.23(b).~~G.S. 106-902(b).

(1) Prevailing winds at the time of ignition must be away from any city, town, development, major highway, or other populated area, the ambient air of which may be significantly affected by smoke, fly ash, or other air contaminates from the burning.

(2) The location of the burning must be at least 1,000 feet from any dwelling or structure located in a predominately residential area other than a dwelling or

structure located on the property on which the burning is conducted unless permission is granted by the occupants.

(3) The amount of dirt or organic soil on or in the material to be burned must be minimized and the material arranged in a way suitable to facilitate rapid burning.

(4) Burning may not be initiated when it is determined by a forest ranger, based on information supplied by a competent authority that stagnant air conditions or inversions exist or that such conditions may occur during the duration of the burn.

(5) Heavy oils, asphaltic material, or items containing natural or synthetic rubber may not be used to ignite the material to be burned or to promote the burning of such material.

(6) Initial burning may be commenced only between the hours of 9:00 A.M. and 3:00 P.M. and no combustible material may be added to the fire between 3:00 P.M. on one day and 9:00 A.M. on the following day, except that when favorable meteorological conditions exist, any forest ranger authorized to issue the permit may authorize in writing a deviation from the restrictions.

**"§ 106-903. Open burning in non-high hazard counties; permits required; standards.**

(a) The provisions of this section apply only to the counties not designated as high hazard counties in ~~G.S. 113-60.23(a).~~G.S. 106-902(a).

(b) It shall be unlawful for any person to start or cause to be started any fire or ignite any material in any woodland under the protection of the Department or within 500 feet of any such woodland during the hours starting at midnight and ending at 4:00 P.M. without first obtaining a permit from the Department. Permits may be obtained from forest rangers or other agents authorized by the forest ranger to issue such permits in the county in which the fire is to be started. Such permits shall be issued by the ranger or other agent unless permits for the area in question have been prohibited or cancelled under ~~G.S. 113-60.25 or 113-60.27.~~G.S. 106-904 or G.S. 106-906.

**"§ 106-904. Open burning prohibited statewide.**

During periods of hazardous forest fire conditions or during air pollution episodes declared pursuant to Article 21B of Chapter 143 of the General Statutes, the ~~secretary~~ Commissioner is authorized to prohibit all open burning regardless of whether a permit is required under ~~G.S. 113-60.23 or 113-60.24.~~G.S. 106-902 or G.S. 106-903. The ~~secretary~~ Commissioner shall issue a press release containing relevant details of the prohibition to news media serving the area affected.

**"§ 106-905. Permit conditions.**

Permits issued under this Article shall be issued in the name of the person undertaking the burning and shall specify the specific area in which the burning is to occur, the type and amount of material to be burned, the duration of the permit, and such other factors as are necessary to identify the burning which is allowed under the permit.

**"§ 106-906. Permit suspension and cancellation.**

Upon a determination that hazardous forest fire conditions exist the ~~secretary~~ Commissioner is authorized to cancel any permit issued under this Article and suspend the issuance of any new permits. Upon a determination by the Environmental Management Commission or its agent that open burning permitted under this Article is causing significant contravention of ambient air quality standards or that an air pollution episode exists pursuant to Article 21B of Chapter 143 of the General Statutes, the ~~secretary~~ Commissioner shall cancel any permits issued under authority of this Article and shall suspend the issuance of any new permits.

**"§ 106-907. Control of existing fires.**

(a) If a fire is set without a permit required by ~~G.S. 113-60.23, 113-60.24 or 113-60.25~~G.S. 106-902, 106-903, or 106-904, and is set in an area in which permits are prohibited or cancelled at the time the fire is set, the person responsible for setting the fire or causing the fire to be set shall immediately extinguish the fire or take such other action as directed by any forest ranger authorized to issue permits under ~~G.S. 113-60.23(c).~~G.S. 106-902(c). In the event that the person responsible does not immediately undertake efforts to extinguish the fire or take such other action as directed by the forest ranger, the Department may enter the property and take reasonable steps to extinguish or control the fire and the person responsible for setting the fire shall reimburse the Department

for the expenses incurred by the Department. A showing that a fire is associated with land-clearing activities is prima facie evidence that the person undertaking the land clearing is responsible for setting the fire or causing the fire to be set.

(b) If a fire requiring a permit under ~~G.S. 113-60.23(c)~~G.S. 106-902(c) is set without a permit and a forest ranger authorized to issue such permits determines that a permit would not have been issued for the fire at the time it was set, the person responsible for setting the fire or causing the fire to be set shall immediately take such action as the forest ranger directs to extinguish or control the fire. In the event the person responsible does not immediately undertake efforts to extinguish the fire or take such other action as directed by the forest ranger, the Department may enter the property and take reasonable steps to extinguish or control the fire and the person responsible for setting the fire shall reimburse the Department for the expenses incurred by the Department. A showing that a fire is associated with land-clearing activities is prima facie evidence that the person undertaking the land clearing is responsible for setting the fire or causing the fire to be set.

(c) If a fire is set in accordance with a permit but the burning is taking place contrary to the conditions of the permit, any forest ranger with authority to issue permits in the area in question may order the permittee in writing to undertake the steps necessary to comply with the conditions of his permit. If the permittee is not making a reasonable effort to comply with the order, the forest ranger may enter the property and take reasonable steps to extinguish or control the fire and the permittee shall reimburse the Department for the expenses incurred by the Department.

**"§ 106-908. Penalties.**

Any person violating the provisions of this Article or of any permit issued under the authority of this Article shall be guilty of a Class 3 misdemeanor. The penalties imposed by this section shall be separate and apart and not in lieu of any civil or criminal penalties which may be imposed by G.S. 143-215.114A or G.S. 143-215.114B. The penalties imposed are also in addition to any liability the violator incurs as a result of actions taken by the Department under ~~G.S. 113-60.28.~~G.S. 106-907.

**"§ 106-909. Effect on other laws.**

This Article shall not be construed as affecting or abridging the lawful authority of local governments to pass ordinances relating to open burning within their boundaries. Nothing in this Article shall relieve any person from compliance with the provisions of Article 21B of Chapter 143 of the General Statutes and regulations adopted thereunder. In the event that permits are required for open burning associated with land clearing under the authority of Article 21B of Chapter 143 of the General Statutes, the authority to issue such permits shall be delegated to forest rangers who are authorized to issue permits under ~~G.S. 113-60.23(c).~~G.S. 106-902(c).

**"§ 106-910. Exempt fires; no permit fees.**

(a) This Article shall not apply to any fires started, or caused to be started, within 100 feet of an occupied dwelling house if such fire shall be confined (i) within an enclosure from which burning material may not escape or (ii) within a protected area upon which a watch is being maintained and which is provided with adequate fire protection equipment.

(b) No charge shall be made for the granting of any permit required by this Article."

**SECTION 13.25.(y)** Article 4D of Chapter 113 of the General Statutes (G.S. 113-60.32 and G.S. 113-60.33) is recodified as a new Article 76 of Chapter 106 of the General Statutes, G.S. 106-911 and G.S. 106-912.

**SECTION 13.25.(z)** Article 76 of Chapter 106 of the General Statutes, as recodified by subsection (y) of this section, reads as rewritten:

"Article 76.

"Fire Fighters on Standby Duty.

**"§ 106-911. Definitions.**

As used in this Article:

(1) "Fire fighter" means an employee of the Division of Forest Resources of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services who engages in fire suppression duties.

(2) "Fire suppression duties" means involvement in on-site fire suppression, participation in Project Fire Team while it is mobilized, Operations Room duty during on-going fires or when required by high readiness plans, mop-up activities to secure fire sites, scouting and detecting forest fires, performance

of standby duty, and any other activity that directly contributes to the detection, response to, and control of fires.

"**§ 106-912. Standby duty.**

(a) Standby duty is time during which a fire fighter is required to remain within 25 miles of his duty station and be available to return to the duty station on call. The Department of Agriculture and Consumer Services shall provide each fire fighter on standby duty with an electronic paging device that makes the wearer accessible to his duty station.

(b) Notwithstanding subsection (a) of this section, for at least two out of 14 consecutive days that a fire fighter is on duty, the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services shall permit the fire fighter to be more than 25 miles from his duty station so long as the fire fighter gives the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services a telephone number where he can be reached; each month, the days the fire fighter is permitted to be more than 25 miles from his duty station shall include one full weekend. On the days the fire fighter is permitted to be more than 25 miles from his duty station, the Department of ~~Environment and Natural Resources~~ Agriculture and Consumer Services may call him only when there is a bona fide emergency."

**SECTION 13.25.(aa)** Article 4E of Chapter 113 of the General Statutes (G.S. 113-60.40, 113-60.41, 113-60.42, 113-60.43, 113-60.44, and 113-60.45) is recodified as a new Article 77 of Chapter 106 of the General Statutes, G.S. 106-920 through G.S. 106-925.

**SECTION 13.25.(bb)** Article 77 of Chapter 106 of the General Statutes, as recodified by subsection (aa) of this section, reads as rewritten:

"Article 77.

"North Carolina Prescribed Burning Act.

"**§ 106-920. Legislative findings.**

The General Assembly finds that prescribed burning of forestlands is a management tool that is beneficial to North Carolina's public safety, forest and wildlife resources, environment, and economy. The General Assembly finds that the following are benefits that result from prescribed burning of forestlands:

(1) Prescribed burning reduces the naturally occurring buildup of vegetative fuels on forestlands, thereby reducing the risk and severity of wildfires and lessening the loss of life and property.

(2) The State's ever-increasing population is resulting in urban development directly adjacent to fire-prone forestlands, referred to as a woodland-urban interface area. The use of prescribed burning in these woodland-urban interface areas substantially reduces the risk of wildfires that cause damage.

(3) Many of North Carolina's natural ecosystems require periodic fire for their survival. Prescribed burning is essential to the perpetuation, restoration, and management of many plant and animal communities. Prescribed burning benefits game, nongame, and endangered wildlife species by increasing the growth and yield of plants that provide forage and an area for escape and brooding and that satisfy other habitat needs.

(4) Forestlands are economic, biological, and aesthetic resources of statewide significance. In addition to reducing the frequency and severity of wildfires, prescribed burning of forestlands helps to prepare sites for replanting and natural seeding, to control insects and diseases, and to increase productivity.

(5) Prescribed burning enhances the resources on public use lands, such as State and national forests, wildlife refuges, nature preserves, and game lands. Prescribed burning enhances private lands that are managed for wildlife refuges, nature preserves, and game lands. Prescribed burning enhances private lands that are managed for wildlife, recreation, and other purposes.

As North Carolina's population grows, pressures resulting from liability issues and smoke complaints discourage or limit prescribed burning so that these numerous benefits to forestlands often are not attainable. By recognizing the benefits of prescribed burning and by adopting requirements governing prescribed burning, the General Assembly helps to educate the public, avoid misunderstandings, and reduce complaints about this valuable management tool.

"**§ 106-921. Definitions.**

As used in this Article:

(1) "Certified prescribed burner" means an individual who has successfully completed a certification program approved by the Division of Forest Resources of the Department of ~~Environment and Natural Resources.~~Agriculture and Consumer Services.

(2) "Prescribed burning" means the planned and controlled application of fire to naturally occurring vegetative fuels under safe weather and safe environmental and other conditions, while following appropriate precautionary measures that will confine the fire to a predetermined area and accomplish the intended management objectives.

(3) "Prescription" means a written plan prepared by a certified prescribed burner for starting, controlling, and extinguishing a prescribed burning.

"**106-922. Immunity from liability.**

(a) Any prescribed burning conducted in compliance with ~~G.S. 113-60.43~~G.S. 106-923 is in the public interest and does not constitute a public or private nuisance.

(b) A landowner or the landowner's agent who conducts a prescribed burning in compliance with ~~G.S. 113-60.43~~G.S. 106-923 shall not be liable in any civil action for any damage or injury caused by or resulting from smoke.

(c) Notwithstanding subsections (a) and (b), this section does not apply when a nuisance or damage results from a negligently or improperly conducted prescribed burning.

"**§ 106-923. Prescribed burning.**

(a) Prior to conducting a prescribed burning, the landowner shall obtain a prescription for the prescribed burning prepared by a certified prescribed burner and filed with the Division of Forest Resources, Department of ~~Environment and Natural Resources.~~Agriculture and Consumer Services. A copy of the prescription shall be provided to the landowner. A copy of this prescription shall be in the possession of the responsible burner on site throughout the duration of the prescribed burning. The prescription shall include:

(1) The landowner's name and address.

(2) A description of the area to be burned.

(3) A map of the area to be burned.

(4) An estimate in tons of the fuel located on the area.

(5) The objectives of the prescribed burning.

(6) A list of the acceptable weather conditions and parameters for the prescribed burning sufficient to minimize the likelihood of smoke damage and fire escaping onto adjacent areas.

(7) The name of the certified prescribed burner responsible for conducting the prescribed burning.

(8) A summary of the methods that are adequate for the particular circumstances involved to be used to start, control, and extinguish the prescribed burning.

(9) Provision for reasonable notice of the prescribed burning to be provided to nearby homes and businesses to avoid effects on health and property.

(b) The prescribed burning shall be conducted by a certified prescribed burner in accordance with a prescription that satisfies subsection (a) of this section. The certified prescribed burner shall be present on the site and shall be in charge of the burning throughout the period of the burning. A landowner may conduct a prescribed burning without being a certified prescribed burner if the landowner is burning a tract of forestland of 50 acres or less owned by that landowner and is following all conditions established in a prescription prepared by a certified prescribed burner.

(c) Prior to conducting a prescribed burning, the landowner or the landowner's agent shall obtain an open-burning permit under Article 4C of this Chapter from the Division of Forest Resources, Department of ~~Environment and Natural Resources.~~Agriculture and Consumer Services. This open-burning permit must remain in effect throughout the period of the prescribed burning. The prescribed burning shall be conducted in compliance with all the following:

(1) The terms and conditions of the open-burning permit under ~~Article 4C~~Article 75 of this Chapter.

(2) The State's air pollution control statutes under Article 21 and Article 21B of Chapter 143 of the General Statutes and any rules adopted pursuant to these statutes.

(3) Any applicable local ordinances relating to open burning.

(4) The voluntary smoke management guidelines adopted by the Division of Forest Resources, Department of ~~Environment and Natural Resources.~~Agriculture and Consumer Services.

(5) Any rules adopted by the Division of Forest Resources, Department of ~~Environment and Natural Resources,~~Agriculture and Consumer Services, to implement this Article.

**"§ 106-924. Adoption of rules.**

The Division of Forest Resources, Department of ~~Environment and Natural Resources,~~Agriculture and Consumer Services, may adopt rules that govern prescribed burning under this Article.

**"§ 106-925. Exemption.**

This Article does not apply when the ~~Secretary of Environment and Natural Resources~~Commissioner of Agriculture has cancelled burning permits pursuant to ~~G.S. 113-60.27~~G.S. 106-906 or prohibited all open burning pursuant to ~~G.S. 113-60.25.~~G.S. 106-904."

**SECTION 13.25.(cc)** Article 5 of Chapter 113 of the General Statutes (G.S. 113-61, 113-62, 113-63, 113-64, 113-65, 113-66, 113-67, 113-68, 113-69, 113-70, 113-71, 113-72, 113-73, 113-74, 113-75, 113-76, and 113-77) is recodified as a new Article 78 of Chapter 106 of the General Statutes, G.S. 106-930 through G.S. 106-946.

**SECTION 13.25.(dd)** Article 78 of Chapter 106 of the General Statutes, as recodified by subsection (cc) of this section, reads as rewritten:

"Article 78.

"Corporations for Protection and Development of Forests.

**"§ 106-930. Private limited dividend corporations may be formed.**

(a) In this Article, unless the context requires otherwise, "Department" means the Department of ~~Environment and Natural Resources; and "Secretary"~~Agriculture and Consumer Services, and "Commissioner" means the ~~Secretary of Environment and Natural Resources.~~Commissioner of Agriculture.

(b) Three or more persons, who associate themselves by an agreement in writing for the purpose, may become a private limited dividend corporation to finance and carry out projects for the protection and development of forests and for such other related purposes as the Secretary shall approve, subject to all the duties, restrictions and liabilities, and possessing all the rights, powers, and privileges, of corporations organized under the general corporation laws of the State of North Carolina, except where such provisions are in conflict with this Article.

**"§ 106-931. Manner of organizing.**

A corporation formed under this Article shall be organized and incorporated in the manner provided for organization of corporations under the general corporation laws of the State of North Carolina, except where such provisions are in conflict with this Article. The certificate of organization of any such corporation shall contain a statement that it is organized under the provisions of this Article and that it consents to be and shall be at all times subject to the rules and supervision of the Secretary, and shall set forth as or among its purposes the protection and development of forests and the purchase, acquisition, sale, conveyance and other dealing in the same and the products therefrom, subject to the rules from time to time imposed by the Secretary.

**"§ 106-932. Directors.**

There shall not be less than three directors, one of whom shall always be a person designated by the Secretary, which one need not be a stockholder.

**"§ 106-933. Duties of supervision by ~~Secretary of Environment and Natural Resources.~~Commissioner.**

Corporations formed under this Article shall be regulated by the ~~Secretary~~ Commissioner in the manner provided in this Article. Traveling and other expenses incurred by him in the discharge of the duties imposed upon him by this Article shall be charged to, and paid by, the particular corporation or corporations on account of which such expenses are incurred. His general expenses incurred in the discharge of such duties which cannot be fairly charged to any particular corporation or corporations shall be charged to, and paid by, all the corporations then organized and existing under this Article pro rata according to their respective stock capitalizations. The ~~Secretary~~ Commissioner shall:

(1) Adopt rules to implement this Article and to protect and develop forests subject to its jurisdiction.

(2) Order all corporations organized under this Article to do such acts as may be necessary to comply with the provisions of law and the rules adopted by the ~~Secretary,~~Commissioner, or to refrain from doing any acts in violation thereof.

(3) Keep informed as to the general condition of all such corporations, their capitalization and the manner in which their property is permitted, operated or managed with respect to their compliance with all provisions of law and orders of the ~~Secretary.~~Commissioner.

(4) Require every such corporation to file with the ~~Secretary~~ Commissioner annual reports and, if the ~~Secretary~~ Commissioner shall consider it advisable, other periodic and special reports, setting forth such information as to its affairs as the ~~Secretary~~ Commissioner may require.

**"§ 106-934. Powers of ~~Secretary.~~Commissioner.**

The ~~Secretary~~ Commissioner may:

(1) Examine at any time all books, contracts, records, documents and papers of any such corporation.

(2) In his discretion prescribe uniform methods and forms of keeping accounts, records and books to be observed by such corporation, and prescribe by order accounts in which particular outlays and receipts are to be entered, charged or credited. The ~~Secretary~~ Commissioner shall not, however, have authority to require any revaluation of the real property or other fixed assets of such corporations, but he shall allow proper charges for the depletion of timber due to cutting or destruction.

(3) Enforce the provisions of this Article, a rule implementing this Article, or an order issued under this Article by filing a petition for a writ of mandamus or application for an injunction in the superior court of the county in which the respondent corporation has its principal place of business. The final judgment in any such proceeding shall either dismiss the proceeding or direct that a writ of mandamus or an injunction, or both, issue as prayed for in the petition or in such modified or other form as the court may determine will afford appropriate relief.

**"§ 106-935. Provision for appeal by corporations to Governor.**

If any corporation organized under this Article is dissatisfied with or aggrieved at any rule or order imposed upon it by the ~~Secretary,~~Commissioner, or any valuation or appraisal of any of its property made by the ~~Secretary,~~Commissioner, or any failure of or refusal by the ~~Secretary~~ Commissioner to approve of or consent to any action which it can take only with such approval or consent, it may appeal to the Governor by filing with him a claim of appeal upon which the decision of the Governor shall be final. Such determination, if other than a dismissal of the appeal, shall be set forth by the Governor in a written mandate to the ~~Secretary,~~Commissioner, who shall abide thereby and take such actions as the same may direct.

**"§ 106-936. Limitations as to dividends.**

The shares of stock of corporations organized under this Article shall have a par value and, except as provided in ~~G.S. 113-69~~G.S. 106-938 in respect to distributions in kind upon dissolution, no dividend shall be paid thereon at a rate in excess of six per centum (6%) per annum on stock having a preference as to dividends, or eight per centum (8%) per annum on stock not having a preference as to dividends, except that any such dividends may be cumulative without interest.

**"§ 106-937. Issuance of securities restricted.**

No such corporation shall issue stock, bonds or other securities except for money, timberlands, or interests therein, located in the State of North Carolina or other property, actually received, or services rendered, for its use and its lawful purposes. Timberlands, or interests therein, and other property or services so accepted therefor, shall be upon a valuation approved by the ~~Secretary.~~Commissioner.

**"§ 106-938. Limitation on bounties to stockholders.**

Stockholders shall at no time receive or accept from any such corporation in repayment of their investment in its stock any sums in excess of the par value of the stock together with cumulative dividends at the rate set forth in ~~G.S. 113-67~~G.S. 106-936 except that nothing in this section contained shall be construed to prohibit the distribution of the assets of such corporation in kind to its stockholders upon dissolution thereof.

**"§ 106-939. Earnings above dividend requirements payable to State.**

Any earnings of such corporation in excess of the amounts necessary to pay dividends to stockholders at the rate set forth in ~~G.S. 113-67~~G.S. 106-936 shall be paid over to the State of North Carolina prior to the dissolution of such corporation. Net income or net losses (determined in such manner as the ~~Secretary~~ Commissioner shall consider properly to show such income or losses) from the sale of the capital assets of such corporation, whether such sale be upon dissolution or otherwise, shall be considered in determining the earnings of such corporation for the purposes of this section. In determining such earnings unrealized appreciation or depreciation of real estate or other fixed assets shall not be considered.

**"§ 106-940. Dissolution of corporation.**

Any such corporation may be dissolved at any time in the manner provided by and under the provisions of the general corporation laws of the State of North Carolina, except that the court shall dismiss any petition for dissolution of any such corporation filed within 20 years of the date of its organization unless the same is accompanied by a certificate of the ~~Secretary~~ Commissioner consenting to such dissolution.

**"§ 106-941. Cutting and sale of timber.**

Any such corporation may cut and sell the timber on its land or permit the cutting thereof, but all such cuttings shall be in accordance with the rules, restrictions and limitations imposed by the ~~Secretary,~~Commissioner, who shall impose such rules, restrictions and limitations with respect thereto as may reasonably conform to the accepted custom and usage of good forestry and forest economy, taking into consideration the situation, nature and condition of the tract so cut or to be cut, and the financial needs of such corporation from time to time.

**"§ 106-942. Corporation may not sell or convey without consent of ~~Secretary,~~Commissioner, or pay higher interest rate than 6%.**

No such corporation ~~shall:~~shall do any of the following:

(1) Sell, assign or convey any real property owned by it or any right, title or interest therein, except upon notice to the ~~Secretary~~ Commissioner of the terms of such sale, transfer or assignment, and unless the ~~Secretary~~ Commissioner shall consent thereto, and if the ~~Secretary~~ Commissioner shall require it, unless the purchaser thereof shall agree that such real estate shall remain subject to the rules and supervision of the ~~Secretary~~ Commissioner for such period as the latter may ~~require;~~require.

(2) Pay interest returns on its mortgage indebtedness at a higher rate than six per centum (6%) per annum without the consent of the ~~Secretary;~~Commissioner.

(3) Mortgage any real property without first having obtained the consent of the ~~Secretary.~~Commissioner.

**"§ 106-943. Power to borrow money limited.**

Any such corporation formed under this Article may, subject to the approval of the ~~Secretary,~~Commissioner, borrow funds and secure their payment thereof by note or notes and mortgage or by the issue of bonds under a trust indenture. The notes or bonds so issued and secured and the mortgage or trust indenture relating thereto may contain such clauses and provisions as shall be approved by the ~~Secretary,~~Commissioner, including the right to enter into possession in case of default; but the operations of the mortgagee or receiver entering in such event or of the purchaser of the property upon foreclosure shall be subject to the rules of the ~~Secretary~~ Commissioner for such period as the mortgage or trust indenture may specify.

**"§ 106-944. ~~Secretary~~ Commissioner to approve development of forests.**

No project for the protection and development of forests proposed by any such corporation shall be undertaken without the approval of the ~~Secretary,~~Commissioner, and such approval shall not be given unless:

(1) The ~~Secretary~~ Commissioner shall have received a statement duly executed and acknowledged on behalf of the corporation proposing such project, in such adequate detail as the ~~Secretary~~ Commissioner shall require of the activities to be included in the project, such statement to set forth the proposals as to

a. Fire prevention and protection,

b. Protection against insects and tree diseases,

c. Protection against damage by livestock and game,

d. Means, methods and rate of, and restrictions upon, cutting and other utilization of the forests, and

e. Planting and spacing of trees.

(2) There shall be submitted to the ~~Secretary~~ Commissioner a financial plan satisfactory to him setting forth in detail the amount of money needed to carry out the entire project, and how such sums are to be allocated, with adequate assurances to the ~~Secretary~~ Commissioner as to where such funds are to be secured.

(3) The ~~Secretary~~ Commissioner shall be satisfied that the project gives reasonable assurance of the operation of the forests involved on a sustained-yield basis except insofar as the ~~Secretary~~ Commissioner shall consider the same impracticable.

(4) The corporation proposing such project shall agree that the project shall at all times be subject to the supervision and inspection of the ~~Secretary,~~Commissioner, and that it will at all times comply with such rules concerning the project as the ~~Secretary~~ Commissioner shall from time to time impose.

**"§ 106-945. Application of corporate income.**

The gross annual income of any such corporation, whether received from sales of timber, timber operations, stumpage permits or other sources, shall be applied as follows: first, to the payment of all fixed charges, and all operating and maintenance charges and expenses including taxes, assessments, insurance, amortization charges in amounts approved by the ~~Secretary~~ Commissioner to amortize mortgage or other indebtedness and reserves essential to operation; second, to surplus, and/or to the payment of dividends not exceeding the maximum fixed by this Article; third, the balance, if any, in reduction of debts.

**"§ 106-946. Reorganization of corporations.**

Reorganization of corporations organized under this Article shall be subject to the supervision of the ~~Secretary~~ Commissioner and no such reorganization shall be had without the authorization of the ~~Secretary.~~Commissioner."

**SECTION 13.25.(ee)** Article 6A of Chapter 113 of the General Statutes (G.S. 113-81.1, 113-81.2, and 113-81.3) is recodified as a new Article 79 of Chapter 106 of the General Statutes, G.S. 106-950 through G.S. 106-952.

**SECTION 13.25.(ff)** Article 79 of Chapter 106 of the General Statutes, as recodified by subsection (ee) of this section, reads as rewritten:

"Article 79.

"Forestry Services and Advice for Owners and Operators of Forestland.

**"§ 106-950. Authority to render scientific forestry services.**

(a) In this Article, unless the context requires otherwise:

(1) "Commissioner" means the Commissioner of Agriculture.

~~(1)~~(2) "Department" means the Department of ~~Environment and Natural Resources.~~Agriculture and Consumer Services.

~~(2) "Secretary" means the Secretary of Environment and Natural Resources.~~

(b) The Department is hereby authorized to designate, upon request, forest trees of forest landowners and forest operators for sale or removal, by blazing or otherwise, and to measure or estimate the volume of same under the terms and conditions hereinafter provided. The Department is also authorized to cooperate with landowners of the State and with counties, municipalities and State agencies by making available forestry services consisting of specialized equipment and operators, or by renting such equipment, and to perform such labor and services as may be necessary to carry out approved forestry practices, including site preparation, forest planting, prescribed burning, and other appropriate forestry practices. For such services or rentals, a reasonable fee representing the ~~Secretary's~~ Commissioner's estimate of not less than the costs of such services or rentals shall be charged, provided however, when the ~~Secretary~~ Commissioner deems it in the public interest, said services may be provided without charge, for the purpose of encouraging the use of approved scientific forestry practice on the private or other forestlands within the State, or for the purpose of providing practical demonstrations of said practices. Receipts from these activities and rentals shall be credited to the budget of the Department for the furtherance of these activities.

**"§ 106-951. Services under direction of ~~Secretary;~~Commissioner; compensation; when services without charge.**

(a) The administration of the provisions of this Article shall be under the direction of the ~~Secretary.~~Commissioner. The ~~Secretary,~~Commissioner, or his authorized agent, upon

receipt of a request from a forest landowner or operator for technical forestry assistance or service, may designate forest trees for removal for lumber, veneer, poles, piling, pulpwood, cordwood, ties, or other forest products by blazing, spotting with paint or otherwise designating in an approved manner; he may measure or estimate the commercial volume contained in the trees designated; he may furnish the landowner or operator with a statement of the volume of the trees so designated and estimated; he may assist in finding a suitable market for the products so designated, and he may offer general forestry advice concerning the management of the forest.

(b) For such designating, measuring or estimating services the ~~Secretary~~ Commissioner may make a charge, on behalf of the Department, in an amount not to exceed five percent (5%) of the sale price or fair market value of the stumpage so designated and measured or estimated. Upon receipt from the ~~Secretary~~ Commissioner of a statement of such charges, the landowner or operator or his agent shall make payment to the ~~Secretary~~ Commissioner within 30 days.

(c) In those cases where the ~~Secretary~~ Commissioner deems it desirable to so designate and measure or estimate trees without charge, such services shall be given for the purpose of encouraging the use of approved scientific forestry principles on the private or other forestlands within the State, and to establish practical demonstrations of said principles.

**"§ 106-952. Deposit of receipts with State treasury.**

All moneys paid to the ~~Secretary~~ Commissioner for services rendered under the provisions of this Article shall be deposited into the State treasury to the credit of the Department."

**SECTION 13.25.(gg)** Article 11 of Chapter 113A of the General Statutes (G.S. 113A-176, 113A-177, 113A-178, 113A-179, 113A-180, 113A-180.1, 113A-181, 113A-182, and 113A-183) is recodified as a new Article 80 of Chapter 106 of the General Statutes, G.S. 106-955 through G.S. 106-963.

**SECTION 13.25.(hh)** Article 80 of Chapter 106 of the General Statutes, as recodified by subsection (gg) of this section, reads as rewritten:

"Article 80.

"Forest Development Act.

**"§ 106-955. Title.**

This Article shall be known as the "Forest Development Act."

**"§ 106-956. Statement of purpose.**

(a) The General Assembly finds that:

(1) It is in the public interest of the State to encourage the development of the State's forest resources and the protection and improvement of the forest environment.

(2) Unfavorable environmental impacts, particularly the rapid loss of forest land to urban development, are occurring as a result of population growth. It is in the State's interest that corrective action be developed now to offset forest land losses in the future.

(3) Regeneration of potentially productive forest land is a high-priority problem requiring prompt attention and action. Private forest land will become more important to meet the needs of the State's population.

(4) Growing demands on forests and related land resources cannot be met by intensive management of public and industrial forest lands alone.

(b) The purpose of this Article is to direct the ~~Secretary~~ Commissioner of Agriculture to implement a forest development program to:

(1) Provide financial assistance to eligible landowners to increase the productivity of the privately owned forests of the State through the application of forest renewal practices and other practices that improve tree growth and overall forest health.

(2) Insure that forest operations in the State are conducted in a manner designed to protect the soil, air, and water resources, including but not limited to streams, lakes and estuaries through actions of landowners on lands for which assistance is sought under provisions in this Article.

(3) Implement a program of voluntary landowner participation through the use of a forest development fund to meet the above goals.

(c) It is the intent of the General Assembly that in implementing the program under this Article, the ~~Secretary~~ Commissioner will cause it to be coordinated with other related programs in such a manner as to encourage the utilization of private agencies, firms and individuals

furnishing services and materials needed in the application of practices included in the forest development program.

**"§ 106-957. Definitions.**

As used in this Article:

(1) "Approved forest management plan" means the forest management plan submitted by the eligible landowner and approved by the ~~Secretary.~~Commissioner. Such plan shall include forest management practices to insure both maximum forest productivity and environmental protection of the lands to be treated under the management plan.

(2) "Approved practices"' mean those silvicultural practices approved by the Secretary for the purpose of commercially growing timber through the establishment of forest stands, of insuring the proper regeneration of forest stands to commercial production levels following the harvest of mature timber, or of insuring maximum growth potential of forest stands to commercial production levels. Such practices shall include those required to accomplish site preparation, natural and artificial forestation, noncommercial removal of residual stands for silvicultural purposes, cultivation of established young growth of desirable trees for silvicultural purposes, and improvement of immature forest stands for silvicultural purposes. In each case, approved practices will be determined by the needs of the individual forest stand. These practices shall include existing practices and such practices as are developed in the future to insure both maximum forest productivity and environmental protection.

(2a) "Commissioner" means the Commissioner of Agriculture.

(3) "Department" means the Department of ~~Environment and Natural Resources.~~Agriculture and Consumer Services.

(3a) "Eligible land" means land owned by an eligible landowner.

(4) "Eligible landowner" means a private individual, group, association or corporation owning land suitable for forestry purposes. Where forest land is owned jointly by more than one individual, group, association or corporation, as tenants in common, tenants by the entirety, or otherwise, the joint owners shall be considered, for the purpose of this Article, as one eligible landowner and entitled to receive cost-sharing payments as provided herein only once during each fiscal year.

(5) Recodified as § 113A-178(3a).

(6) "Forest development assessment" means an assessment on primary forest products from timber severed in North Carolina for the funding of the provisions of this Article, as authorized by the General Assembly.

(7) "Forest development cost-sharing payment" means financial assistance to partially cover the costs of implementing approved practices in such amounts as the ~~Secretary~~ Commissioner shall determine, subject to the limitations of this Article.

(8) "Forest development fund" means the Forest Development Fund created by ~~G.S. 113A-183.~~G.S. 106-963.

(8a) "Maintain" means to retain the reforested area as forestland for a 10-year period and to comply with the provisions in the approved forest management plan.

~~(9) "Secretary" means the Secretary of Environment and Natural Resources.~~

**"§ 106-958. Powers and duties.**

(a) The ~~Secretary~~ Commissioner shall have the powers and duties to administer the provisions of this Article.

(b) The Department shall serve as the disbursing agency for funds to be expended from and deposited to the credit of the Forest Development Fund.

(c) Subject to the limitations set forth in ~~G.S. 113A-183(d),~~G.S. 106-963(d), the ~~Secretary~~ Commissioner is authorized to employ administrative, clerical and field personnel to support the program created by this Article and to compensate such employees from the Forest Development Fund for services rendered in direct support of the program.

(d) The ~~Secretary~~ Commissioner is authorized to purchase equipment for the implementation of this program from the Forest Development Fund subject to the limitations of

~~G.S. 113A-183(e).~~G.S. 106-963(e). All equipment purchased with these funds will be assigned to and used only for the forest development program, except for emergency use in forest fire suppression and other activities relating to the protection of life or property. The Forest Development Fund will be reimbursed from other program funds for equipment costs incurred during such emergency use.

**"§ 106-959. Administration of cost sharing.**

The ~~Secretary~~ Commissioner shall have authority to administer the cost sharing provisions of this Article, including but not limited to the following:

(1) Prescribe the manner and requirements of making application for cost sharing funds.

(2) Identify those approved forestry practices as defined in ~~G.S. 113A-178(2)~~G.S. 106-957(2) which shall be approved for cost sharing under the provisions of this Article.

(3) Review periodically the cost of forest development practices and establish allowable ranges for cost sharing purposes for approved practices under varying conditions throughout the State.

(4) Determine, prior to approving forest development cost sharing payments to any landowner, that all proposed practices are appropriate and are comparable in cost to the prevailing cost of those practices in the general area in which the land is located. Should the ~~Secretary~~ Commissioner determine that the submitted cost of any practice is excessive, he shall approve forest development cost sharing payments based upon an allowable cost established under ~~G.S. 113A-180(3).~~G.S. 106-959(3).

(5) Determine, prior to approving forest development cost sharing payments, that an approved forest management plan as defined in ~~G.S. 113A-178(1)~~G.S. 106-957(1) for the eligible land has been filed with the ~~Secretary~~ Commissioner and that the landowner has indicated in writing his intent to comply with the terms of such management plan.

(6) Determine, prior to approving forest development cost sharing payments, that the approved practices for which payment is requested have been completed in a satisfactory manner, conform to the approved forest management plan submitted under ~~G.S. 113A-180(5),~~G.S. 106-959(5), and otherwise meet the requirements of this Article.

(7) Disburse from the Forest Development Fund to eligible landowners cost sharing payments for satisfactory completion of practices provided for by this Article and the ~~Secretary~~ Commissioner shall, insofar as is practicable, disburse the funds from the State's appropriation on a matching basis with the funds generated by the Primary Forest Product Assessment.

**"§ 106-960. Cost-share agreements.**

(a) In order to receive forest development cost-share payments, an eligible landowner shall enter into a written agreement with the Department describing the eligible land, setting forth the approved practices implemented for the area and covered by the approved forest management plan, and agreeing to maintain those practices for a 10-year period.

(b) In the absence of Vis major or Act of God or other factors beyond the landowner's control, a landowner who fails to maintain the practice or practices for a 10-year period in accordance with the agreement set forth in subsection (a) of this section shall repay to the Fund all cost-sharing funds received for that area.

(c) If the landowner voluntarily relinquishes control or title to the land on which the approved practices have been established, the landowner shall:

(1) Obtain a written statement, or a form approved by the Department, from the new owner or transferee in which the new owner or transferee agrees to maintain the approved practices for the remainder of the 10-year period; or

(2) Repay to the Fund all cost-sharing funds received for implementing the approved practices on the land.

If a written statement is obtained from the new owner or transferee, the original landowner will no longer be responsible for maintaining the approved practices or repaying the cost-sharing funds. The responsibility for maintaining those practices for the remainder of the 10 years shall devolve to the new owner or transferee.

**"§ 106-961. Limitation of payments.**

(a) An eligible landowner may receive forest development cost sharing payments for satisfactory completion of approved practices as determined by the ~~Secretary,~~Commissioner, except that the ~~Secretary~~ Commissioner shall approve no assistance in an amount exceeding the lesser of (i) a sum equal to sixty percent (60%) of the landowner's actual per acre cost incurred in implementing the approved practice or (ii) a sum equal to sixty percent (60%) of the prevailing per acre cost as determined by the ~~Secretary~~ Commissioner under ~~G.S. 113A-180(3)~~G.S. 106-959(3) for implementing that approved practice.

(b) The maximum amount of forest development cost sharing funds allowed to any landowner in one fiscal year will be the amount required to complete all approved practices on 100 acres of land at the prevailing cost sharing rate established under ~~G.S. 113A-181(a).~~G.S. 106-961(a).

(c) Eligible landowners may not use State cost sharing funds if funds from any federal cost sharing program are used on the same acreage for forestry practices during the same fiscal year.

**"§ 106-962. Participation by government political subdivisions.**

No governmental agency, federal, State or local, will be eligible for forest development payments under the provision of this Article.

**"§ 106-963. Forest Development Fund.**

(a) The Forest Development Fund is created in the Department ~~of Environment and Natural Resources~~ as a special fund. Revenue in the Fund does not revert at the end of a fiscal year, and interest and other investment income earned by the Fund accrues to it. The Fund is created to provide revenue to implement this Article. The Fund consists of the following revenue:

(1) Assessments on primary forest products collected under ~~Article 12 of Chapter 113A~~Article 81 of Chapter 106 of the General Statutes.
(2) General Fund appropriations.
(3) Gifts and grants made to the Fund.

(d) In any fiscal year, no more than five percent (5%) of the available funds generated by the Primary Forest Product Processor Assessment Act may be used for program support under the provisions of ~~G.S. 113A-179(c).~~G.S. 106-958(c).

(e) Funds used for the purchase of equipment under the provisions of ~~G.S. 113A-179(d)~~ G.S. 106-958(d) shall be limited to appropriations from the General Fund to the Forest Development Fund designated specifically for equipment purchase."

**SECTION 13.25.(ii)** Article 12 of Chapter 113A of the General Statutes (G.S. 113A-189, 113A-190, 113A-191, 113A-192, 113A-193, 113A-194, 113A-195, and 113A-196) is recodified as a new Article 81 of Chapter 106 of the General Statutes, G.S. 106-965 through G.S. 106-972.

**SECTION 13.25.(jj)** Article 81 of Chapter 106 of the General Statutes, as recodified by subsection (ii) of this section, reads as rewritten:

"Article 81.
"Primary Forest Product Assessment Act.

**"§ 106-965. Short title.**

This Article shall be known as the Primary Forest Product Assessment Act.

**"§ 106-966. Statement of purpose.**

(a) The purpose of this Article is to create an assessment on primary forest products processed from North Carolina timber to provide a source of funds to finance the forestry operations provided for in the Forest Development Act of 1977.

(b) All assessments levied under the provisions of this Article shall be used only for the purposes specified in ~~G.S. 113A-193(c)~~G.S. 106-969(c) and in the Forest Development ~~Act.~~Act, Article 11 of this Chapter.

**"§ 106-967. Definitions.**

The following words, terms and phrases hereinafter used for the purpose of this Article are defined as follows:

(1) "Primary forest product" shall include those products of the tree after it is severed from the stump and cut to its first roundwood product for further conversion. These products include but are not limited to whole trees for chipping, whole tree logs, sawlogs, pulpwood, veneer bolts, and posts, poles and piling.

(2) "Processor" shall mean the individual, group, association, or corporation that procures primary forest products at their initial point of concentration for conversion to secondary products or for shipment to others for such conversion.

(3) "Forest Development Fund" shall mean the special fund established by ~~the Forest Development Act of 1977.~~G.S. 106-963.

(4) For the purpose of this Article, the following are not considered "primary forest products":

a. Christmas trees and associated greens;

b. Material harvested from an individual's own land and used on said land for the construction of fences, buildings or other personal use developments;

c. Fuel wood harvested for personal use or use in individual homes.

**"§ 106-968. Operation of assessment system.**

(a) The General Assembly hereby levies an assessment on all primary forest products harvested from lands within the State of North Carolina.

(b) This assessment shall be at the rates as established in ~~G.S. 113A-194(b)~~G.S. 106-970(b) and the proceeds of such assessment shall be deposited in the Forest Development Fund.

**"§ 106-969. Duties.**

(a) The Secretary, Department of Revenue, shall:

(1) Develop the necessary administrative procedures to collect the assessment;

(2) Collect the assessment from the primary forest product processors;

(3) Deposit funds collected from the assessment in the Forest Development Fund;

(4) Audit the records of processors to determine compliance with the provisions of this Article.

(b) The ~~Secretary of Environment and Natural Resources~~Commissioner of Agriculture shall:

(1) Provide to the Secretary, Department of Revenue, lists of processors subject to the assessment;

(2) Advise the Secretary, Department of Revenue, of the appropriate methods to convert measurements of primary forest products by other systems to those authorized in this Article;

(3) Establish in November prior to those sessions in which the General Assembly considers the State budget, the estimated total assessment that will be collectible in the next budget period and so inform the General Assembly;

(4) Within 30 days of certification of the State budget, notify the Secretary, Department of Revenue, of the need to collect the assessment for those years covered by the approved budget.

(5) By January 15 of each odd-numbered year, report to the General Assembly on the number of acres reforested, type of owners assisted, geographic distribution of funds, the amount of funds encumbered and other matters. The report shall include the information by forestry district and statewide and shall be for the two fiscal years prior to the date of the report.

(c) The Secretary of Revenue shall be reimbursed for those actual expenditures incurred as a cost of collecting the assessment for the Forest Development Fund. This amount shall be transferred from the Forest Development Fund in equal increments at the end of each quarter of the fiscal year to the Department of Revenue. This amount shall not exceed five percent (5%) of the total assessments collected on primary forest products during the preceding fiscal year.

**"§ 106-970. Assessment rates.**

(a) The assessment rates shall be based on the following standards:

(1) For primary forest products customarily measured in board feet, the "International 1/4 Inch Log Rule" or equivalent will be used;

(2) For primary forest products customarily measured in cords, the standard cord of 128 cubic feet or equivalent will be used;

(3) For any other type of forest product separated from the soil, the ~~Secretary of Environment and Natural Resources~~Commissioner of Agriculture shall determine a fair unit assessment rate, based on the cubic foot volume of one

thousand foot board measure, International 1/4 Inch Log Rule or one standard cord, 128 cubic feet.

(b) The assessment levied on primary forest products shall be at the following rates:

(1) Fifty cents (50¢) per thousand board feet for softwood sawtimber, veneer logs and bolts, and all other softwood products normally measured in board feet;

(2) Forty cents (40¢) per thousand board feet for hardwood and bald cypress sawtimber, veneer, and all other hardwood and bald cypress products normally measured in board feet;

(3) Twenty cents (20¢) per cord for softwood pulpwood and other softwood products normally measured in cords;

(4) Twelve cents (12¢) per cord for hardwood pulpwood and other hardwood and bald cypress products normally measured in cords;

(5) All material harvested within North Carolina for shipment outside the State for primary processing will be assessed at a percentage of the invoice value. This percentage will be established to yield rates equal to those if the material were processed within the State.

**"§ 106-971. Collection of assessment.**

(a) The assessment shall be levied against the processor of the primary forest product.

(b) The assessment shall be submitted on a quarterly basis of the State's fiscal year due and payable the last day of the month following the end of each quarter.

(c) The assessment shall be remitted to the Secretary, Department of Revenue, by check or money order, with such production reports as may be required by said Secretary.

(d) The processor shall maintain for a period of three fiscal years and make available to the Secretary, Department of Revenue, such production records necessary to verify proper reporting and payment of revenue due the Forest Development Fund.

(e) The production reports of the various processors shall be used only for assessment purposes. Production information will not be made a part of the public record on an individual processor basis.

(f) Any official or employee of the State who discloses information obtained from a production report, except as may be necessary for administration and collection of the assessment, or in the performance of official duties, or in administration or judicial proceedings related to the levy or collection of the assessment, shall be guilty of a Class 3 misdemeanor punishable only by a fine not to exceed fifty dollars ($50.00).

**"§ 106-972. Enforcement of collection.**

The Secretary of Revenue shall enforce collection of the primary forest product assessment in accordance with the remedies and procedures contained in Article 9 of Chapter 105 of the General Statutes."

**SECTION 13.25.(kk)** G.S. 1-339.17(c1) reads as rewritten:

"(c1) When the public sale is a sale of timber by sealed bid, the notice shall also be given in writing, not less than 21 days before the date on which bids are opened, to a reasonable number of prospective timber buyers, which in all cases shall include the timber buyers listed in the office of the Division of Forest Resources <u>of the Department of Agriculture and Consumer Services</u> for the county or counties in which the timber to be sold is located."

**SECTION 13.25.(ll)** G.S. 20-81.12(b35) reads as rewritten:

"(b35) First in Forestry. – The Division must receive 300 or more applications for the First in Forestry plate before the plate may be developed. The Division shall transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the First in Forestry plates to the Division of Forest Resources <u>of the Department of Agriculture and Consumer Services</u> for a State forests and forestry education program and shall transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the First in Forestry plates to the Forest Education and Conservation Foundation for their programs."

**SECTION 13.25.(mm)** G.S. 97-2(2) reads as rewritten:

"(2) Employee. – The term "employee" means every person engaged in an employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also minors, whether lawfully or unlawfully employed, but excluding persons whose employment is both casual and not in the course of the trade, business,

profession, or occupation of his employer, and as relating to those so employed by the State, the term "employee" shall include all officers and employees of the State, including such as are elected by the people, or by the General Assembly, or appointed by the Governor to serve on a per diem, part-time or fee basis, either with or without the confirmation of the Senate; as relating to municipal corporations and political subdivisions of the State, the term "employee" shall include all officers and employees thereof, including such as are elected by the people. The term "employee" shall include members of the North Carolina National Guard while on State active duty under orders of the Governor and members of the North Carolina State Defense Militia while on State active duty under orders of the Governor. The term "employee" shall include deputy sheriffs and all persons acting in the capacity of deputy sheriffs, whether appointed by the sheriff or by the governing body of the county and whether serving on a fee basis or on a salary basis, or whether deputy sheriffs serving upon a full-time basis or a part-time basis, and including deputy sheriffs appointed to serve in an emergency, but as to those so appointed, only during the continuation of the emergency. The sheriff shall furnish to the board of county commissioners a complete list of all deputy sheriffs named or appointed by him immediately after their appointment and notify the board of commissioners of any changes made therein promptly after such changes are made. Any reference to an employee who has been injured shall, when the employee is dead, include also his legal representative, dependents, and other persons to whom compensation may be payable: Provided, further, that any employee, as herein defined, of a municipality, county, or of the State of North Carolina, while engaged in the discharge of his official duty outside the jurisdictional or territorial limits of the municipality, county, or the State of North Carolina and while acting pursuant to authorization or instruction from any superior officer, shall have the same rights under this Article as if such duty or activity were performed within the territorial boundary limits of his employer.

Every executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation shall be considered as an employee of such corporation under this Article.

Any such executive officer of a corporation may, notwithstanding any other provision of this Article, be exempt from the coverage of the corporation's insurance contract by such corporation's specifically excluding such executive officer in such contract of insurance, and the exclusion to remove such executive officer from the coverage shall continue for the period such contract of insurance is in effect, and during such period such executive officers thus exempted from the coverage of the insurance contract shall not be employees of such corporation under this Article.

All county agricultural extension service employees who do not receive official federal appointments as employees of the United States Department of Agriculture and who are field faculty members with professional rank as designated in the memorandum of understanding between the North Carolina Agricultural Extension Service, North Carolina State University, A & T State University, and the boards of county commissioners shall be deemed to be employees of the State of North Carolina. All other county agricultural extension service employees paid from State or county funds shall be deemed to be employees of the county board of commissioners in the county in which the employee is employed for purposes of workers' compensation.

The term "employee" shall also include members of the Civil Air Patrol currently certified pursuant to G.S. 143B-491(a) when performing duties in the course and scope of a State-approved mission pursuant to Article 11 of Chapter 143B of the General Statutes.

"Employee" shall not include any person performing voluntary service as a ski patrolman who receives no compensation for such services other than

meals or lodging or the use of ski tow or ski lift facilities or any combination thereof.

Any sole proprietor or partner of a business or any member of a limited liability company may elect to be included as an employee under the workers' compensation coverage of such business if he is actively engaged in the operation of the business and if the insurer is notified of his election to be so included. Any such sole proprietor or partner or member of a limited liability company shall, upon such election, be entitled to employee benefits and be subject to employee responsibilities prescribed in this Article.

"Employee" shall include an authorized pickup firefighter of the Division of Forest Resources of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services when that individual is engaged in emergency fire suppression activities for the Division of Forest Resources. As used in this section, "authorized pickup firefighter" means an individual who has completed required fire suppression training as a wildland firefighter and who is available as needed by the Division of Forest Resources for emergency fire suppression activities, including immediate dispatch to wildfires and standby for initial attack on fires during periods of high fire danger.

It shall be a rebuttable presumption that the term "employee" shall not include any person performing services in the sale of newspapers or magazines to ultimate consumers under an arrangement whereby the newspapers or magazines are to be sold by that person at a fixed price and the person's compensation is based on the retention of the excess of the fixed price over the amount at which the newspapers or magazines are charged to the person."

**SECTION 13.25.(nn)** G.S. 105-259(b)(41) reads as rewritten:

"(41) To furnish the Division of Forest Resources of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services pertinent contact and financial information concerning companies that are involved in the primary processing of timber products so that the Secretary of Environment and Natural Resources is able to comply with G.S. 113A-193 under the Primary Forest Product Assessment Act."

**SECTION 13.25.(oo)** G.S. 105-277.7(a)(2) reads as rewritten:

"(2) A representative of the Division of Forest Resources of the Department of ~~Environment and Natural Resources,~~Agriculture and Consumer Services, designated by the Director of that Division."

**SECTION 13.25.(pp)** G.S. 105-296(j) reads as rewritten:

"(j) The assessor must annually review at least one eighth of the parcels in the county classified for taxation at present-use value to verify that these parcels qualify for the classification. By this method, the assessor must review the eligibility of all parcels classified for taxation at present-use value in an eight-year period. The period of the review process is based on the average of the preceding three years' data. The assessor may request assistance from the Farm Service Agency, the Cooperative Extension Service, the Division of Forest Resources of the Department of ~~Environment and Natural Resources,~~Agriculture and Consumer Services, or other similar organizations.

The assessor may require the owner of classified property to submit any information, including sound management plans for forestland, needed by the assessor to verify that the property continues to qualify for present-use value taxation. The owner has 60 days from the date a written request for the information is made to submit the information to the assessor. If the assessor determines the owner failed to make the information requested available in the time required without good cause, the property loses its present-use value classification and the property's deferred taxes become due and payable as provided in G.S. 105-277.4(c). If the property loses its present-use value classification for failure to provide the requested information, the assessor must reinstate the property's present-use value classification when the owner submits the requested information within 60 days after the disqualification unless the information discloses that the property no longer qualifies for present-use value classification. When a property's present-use value classification is reinstated, it is reinstated retroactive to the date the classification was revoked and any deferred taxes that were paid as a result of the

revocation must be refunded to the property owner. The owner may appeal the final decision of the assessor to the county board of equalization and review as provided in G.S. 105-277.4(b1).

In determining whether property is operating under a sound management program, the assessor must consider any weather conditions or other acts of nature that prevent the growing or harvesting of crops or the realization of income from cattle, swine, or poultry operations. The assessor must also allow the property owner to submit additional information before making this determination."

**SECTION 13.25.(qq)** G.S. 106-202.14(b)(3) reads as rewritten:

"(3) The Division of Forest Resources, Department of ~~Environment and Natural Resources;~~Agriculture and Consumer Services;".

**SECTION 13.25.(rr)** G.S. 113-291.10(a)(3) reads as rewritten:

"(3) The Director of the Division of Forest Resources of the Department of ~~Environment and Natural Resources,~~Agriculture and Consumer Services, or a designee;"

**SECTION 13.25.(ss)** G.S. 143-166.2(d) reads as rewritten:

"(d) The term "law-enforcement officer", "officer", or "fireman" shall mean a sheriff and all law-enforcement officers employed full-time, permanent part-time, or temporarily by a sheriff, the State of North Carolina or any county or municipality thereof, whether paid or unpaid; and all full-time custodial employees and probation and parole officers of the North Carolina Department of Correction; and all full time institutional and full-time, permanent part-time, and temporary detention employees of the Department of Juvenile Justice and Delinquency Prevention and full-time, permanent part-time, and temporary detention officers employed by any sheriff, county or municipality, whether paid or unpaid. The term "firemen" shall mean both "eligible firemen" as defined in G.S. 58-86-25 and all full-time, permanent part-time and temporary employees of the ~~North Carolina~~ Division of Forest Resources, Department of ~~Environment and Natural Resources,~~Agriculture and Consumer Services, during the time they are actively engaged in fire-fighting activities; and shall mean all full-time employees of the North Carolina Department of Insurance during the time they are actively engaged in fire-fighting activities, during the time they are training fire fighters or rescue squad workers, and during the time they are engaged in activities as members of the State Emergency Response Team, when the Team has been activated; and shall mean all otherwise eligible persons who, while actively engaged as firefighters or rescue squad workers, are acting in the capacity of a fire or rescue instructor outside their own department or squad. The term "rescue squad worker" shall mean a person who is dedicated to the purpose of alleviating human suffering and assisting anyone who is in difficulty or who is injured or becomes suddenly ill by providing the proper and efficient care or emergency medical services. In addition, this person must belong to an organized rescue squad which is eligible for membership in the North Carolina Association of Rescue Squads, Inc., and the person must have attended a minimum of 36 hours of training and meetings in the last calendar year. Each rescue squad belonging to the North Carolina Association of Rescue Squads, Inc., must file a roster of those members meeting the above requirements with the State Treasurer on or about January 1 of each year, and this roster must be certified to by the secretary of said association. In addition, the term "rescue squad worker" shall mean a member of an ambulance service certified by the Department of Health and Human Services pursuant to Article 7 of Chapter 131E of the General Statutes. The Department of Health and Human Services shall furnish a list of ambulance service members to the State Treasurer on or about January 1 of each year. The term "Civil Air Patrol members" shall mean those senior members of the North Carolina Wing-Civil Air Patrol 18 years of age or older and currently certified pursuant to G.S. 143B-491(a). The term "fireman" shall also mean county fire marshals when engaged in the performance of their county duties. The term "rescue squad worker" shall also mean county emergency services coordinators when engaged in the performance of their county duties."

**SECTION 13.25.(tt)** G.S. 143-166.7 reads as rewritten:

**"§ 143-166.7. Applicability of Article.**

The provisions of this Article shall apply and be in full force and effect with respect to any law-enforcement officer, fireman, rescue squad worker or senior Civil Air Patrol member killed in the line of duty on or after May 13, 1975. The provisions of this Article shall apply with respect to full-time, permanent part-time and temporary employees of ~~North Carolina~~ Division of Forest Resources, Department of ~~Environment and Natural Resources,~~Agriculture and Consumer Services, killed in line of duty on or after July 1, 1975. The provisions of this Article

shall apply to county fire marshals and emergency services coordinators killed in the line of duty on and after July 1, 1988."

**SECTION 13.25.(uu)** G.S. 143-214.25A(a) reads as rewritten:

"(a) The Division of Water Quality of the Department shall develop a program to train and certify individuals to determine the presence of surface waters that would require the application of rules adopted by the Commission for the protection of riparian buffers. The Division may train and certify employees of the Division as determined by the Director of the Division of Water Quality; employees of units of local government to whom responsibility for the implementation and enforcement of the riparian buffer protection rules is delegated pursuant to G.S. 143-214.23; and Registered Foresters under Chapter 89B of the General Statutes who are employees of the Division of Forest Resources of the Department of Agriculture and Consumer Services as determined by the Director of the Division of Forest Resources. The Director of the Division of Water Quality may review the determinations made by individuals who are certified pursuant to this section, may override a determination made by an individual certified under this section, and, if the Director of the Division of Water Quality determines that an individual is failing to make correct determinations, revoke the certification of that individual."

**SECTION 13.25.(vv)** G.S. 143-215.74M(d)(11) reads as rewritten:

"(11) The Director of the Division of Forest Resources of the Department of Agriculture and Consumer Services or the Director's designee."

**SECTION 13.25.(ww)** G.S. 166A-18 reads as rewritten:

"**§ 166A-18. Division of Forest Resources designated as emergency response agency.**

The Division of Forest Resources of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services is designated an emergency response agency of the State of North Carolina for purposes of:

(1) Supporting the Division of Emergency Management of the Department of Crime Control and Public Safety in responding to all-risk incidents.
(2) Receipt of any applicable State or federal funding.
(3) Training of other State and local agencies in disaster and emergency management.
(4) Any other disaster and emergency response roles for which the Division has special training or qualifications."

**SECTION 13.25.(xx)** The Revisor of Statutes shall make the conforming statutory changes necessary to reflect the transfers under this section. The Revisor of Statutes may correct any reference in the General Statutes to the statutes that are recodified by this section and make any other conforming changes necessitated by this section.

**SECTION 13.25.(yy)** The transfers under this section become effective July 1, 2011, and funds transferred shall be net of any changes enacted by this section.

**SECTION 13.25.(zz)** Any references in this act to the Division of Forest Resources of the Department of Environment and Natural Resources shall be construed to refer to the Division of Forest Resources of the Department of Agriculture and Consumer Services. Any references in this act to the Forestry Council of the Department of Environment and Natural Resources shall be construed to refer to the Forestry Council of the Department of Agriculture and Consumer Services.

**CLEAN WATER MANAGEMENT TRUST FUND**

**SECTION 13.26.(a)** G.S. 113A-253.1 is repealed.

**SECTION 13.26.(b)** G.S. 113A-253(a) reads as rewritten:

"(a) Fund Established. – The Clean Water Management Trust Fund is established as a special revenue fund. The Fund receives revenue from the following sources and may receive revenue from other sources:

(1) Annual ~~appropriations under G.S. 143-15.3B.~~appropriations.
(2) Scenic River special registration plates under G.S. 20-81.12."

**SECTION 13.26.(c)** The funds appropriated in this act to the Clean Water Management Trust Fund shall be allocated as follows:

(1) Notwithstanding the provisions of G.S. 113A-253(d), the sum of three million dollars ($3,000,000) shall be used for the 2011-2012 fiscal year and for the 2012-2013 fiscal year for the costs of administering the Clean Water Management Trust Fund, including costs to support the Board of Trustees of

the Clean Water Management Trust Fund and its staff, the operating costs of the Board of Trustees of the Clean Water Management Trust Fund and its staff, and the costs of making debt payments to retire debt as provided under G.S. 113A-253(c);

(2) Notwithstanding the provisions of G.S. 113A-253(c) and G.S. 113A-254, the sum of one million five hundred thousand dollars ($1,500,000) shall be used for the 2011-2012 fiscal year and for the 2012-2013 fiscal year for State matching funds for the Readiness and Environmental Protection Initiative and any other United States Department of Defense program that provides for military buffers and protects the overall military training mission; and

(3) The sum of eight million dollars ($8,000,000) shall be used for the 2011-2012 fiscal year and for the 2012-2013 fiscal year for the costs for wastewater projects, water quality restoration projects, minigrants, conservation easements, and stormwater projects consistent with the provisions of Article 18 of Chapter 113A of the General Statutes.

**SECTION 13.26.(d)** The funds allocated under subdivision (1) and subdivision (3) of subsection (c) of this section shall not be used for land acquisition; however, the funds allocated under subdivision (3) of subsection (c) of this section may be used to purchase conservation easements. Notwithstanding the provisions of G.S. 113A-253(c) and G.S. 113A-254, the funds allocated under subdivision (2) of subsection (c) of this section may be used for land acquisition.

**SECTION 13.26.(e)** Any funds that become available to the Clean Water Management Trust Fund during the 2011-2012 fiscal year and the 2012-2013 fiscal year that are in excess of the funds allocated under subsection (c) of this section for that fiscal year shall be used as provided in subdivision (1) and subdivision (3) of subsection (c) of this section.

**NEW FUNDING SOURCE FOR WILDLIFE RESOURCE COMMISSION OPERATING BUDGET**

**SECTION 13.27.(a)** G.S. 105-164.44B is repealed.

**SECTION 13.27.(b)** The Office of State Budget and Management, the State Controller, and the Wildlife Resources Commission shall jointly effectuate, beginning with the Wildlife Resources Commission's operating budget for the 2011-2012 fiscal year, the transition from the Wildlife Resources Commission receiving sales tax proceeds to fund its operating budget to the Wildlife Resources Commission receiving an appropriation of sixteen million dollars ($16,000,000) from the General Fund to fund its operating budget.

**ANNUAL REPORT TO GOV OPS ON WILDLIFE RESOURCES FUND EXPENDITURES**

**SECTION 13.28.(a)** G.S. 143-250 reads as rewritten:

"**§ 143-250. Wildlife Resources Fund.**

All moneys in the game and fish fund or any similar State fund when this Article becomes effective shall be credited forthwith to a special fund in the office of the State Treasurer, and the State Treasurer shall deposit all such moneys in said special fund, which shall be known as the Wildlife Resources Fund.

All unexpended appropriations made to the Department of Conservation and Development, the Board of Conservation and Development, the Division of Game and Inland Fisheries or to any other State agency for any purpose pertaining to wildlife and wildlife resources shall also be transferred to the Wildlife Resources Fund.

Except as otherwise specifically provided by law, all moneys derived from hunting, fishing, trapping, and related license fees, exclusive of commercial fishing license fees, including the income received and accruing from the investment of license revenues, and all funds thereafter received from whatever sources shall be deposited to the credit of the Wildlife Resources Fund and made available to the Commission until expended subject to the provisions of this Article. License revenues include the proceeds from the sale of hunting, fishing, trapping, and related licenses, from the sale, lease, rental, or other granting of rights to real or personal property acquired or produced with license revenues, and from federal aid project reimbursements to the extent that license revenues originally funded the project for which the reimbursement is being made. For purposes of this section, real property includes lands, buildings, minerals, energy resources, timber, grazing rights, and animal products. Personal property includes equipment,

vehicles, machines, tools, and annual crops. The Wildlife Resources Fund herein created shall be subject to the provisions of the State Budget Act, Chapter 143C of the General Statutes of North Carolina as amended, and the provisions of the General Statutes of North Carolina as amended, and the provisions of the Personnel Act, Chapter 143, Article 2 of the General Statutes of North Carolina as amended.

All moneys credited to the Wildlife Resources Fund shall be made available to carry out the intent and purposes of this Article in accordance with plans approved by the North Carolina Wildlife Resources Commission, and all such funds are hereby appropriated, reserved, set aside and made available until expended, for the enforcement and administration of this Article, Chapter 75A, Article 1, and Chapter 113, Subchapter IV of the General Statutes of North Carolina. ~~The~~ No later than October 1 of each year, the Wildlife Resources Commission shall report to the Joint Legislative Commission on Governmental Operations ~~before expending from the Wildlife Resources Fund more than the amount authorized in the budget enacted by the General Assembly for the fiscal period.~~on the expenditures from the Wildlife Resources Fund during the fiscal year that ended the previous July 1 of that year and on the planned expenditures for the current fiscal year.

In the event any uncertainty should arise as to the funds to be turned over to the North Carolina Wildlife Resources Commission the Governor shall have full power and authority to determine the matter and his recommendation shall be final and binding to all parties concerned."

**SECTION 13.28.(b)** The first report required under G.S. 143-250, as amended by subsection (a) of this section, is due no later than October 1, 2011.

**ANNUAL APPROPRIATIONS FOR BEAVER DAMAGE CONTROL PROGRAM FROM FUNDS AVAILABLE TO THE WILDLIFE RESOURCES COMMISSION**

**SECTION 13.29.** G.S. 113-291.10(f) reads as rewritten:

"(f) Each county that volunteers to participate in this program for a given fiscal year shall provide written notification of its wish to participate no later than September 30 of that year and shall commit the sum of four thousand dollars ($4,000) in local funds no later than September 30 of that year. ~~At least three hundred forty-nine thousand dollars ($349,000)~~ Funds, as appropriated for this program each fiscal year of the ~~biennium~~ biennium, shall be paid from funds available to the Wildlife Resources Commission to provide the State share necessary to support this program, provided the sum of at least twenty-five thousand dollars ($25,000) in federal funds is available each fiscal year of the biennium to provide the federal share."

## PART XIV. DEPARTMENT OF COMMERCE

**NER BLOCK GRANTS**

**SECTION 14.1.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2012, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

| | | |
|---|---|---|
| 01. | State Administration | $ 1,000,000 |
| 02. | State Technical Assistance | 450,000 |
| 03. | Scattered Site Housing | 8,000,000 |
| 04. | Economic Development | 7,210,000 |
| 05. | Small Business/Entrepreneurship | 3,000,000 |
| 06. | NC Catalyst | 5,000,000 |
| 07. | Infrastructure | 19,740,000 |
| 08. | Capacity Building | 600,000 |

TOTAL COMMUNITY DEVELOPMENT
BLOCK GRANT – 2012 Program Year $ 45,000,000

**SECTION 14.1.(b)** Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

**SECTION 14.1.(c)** Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

**SECTION 14.1.(d)** Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars ($1,000,000) may be used for State Administration; up to four hundred fifty thousand dollars ($450,000) may be used for State Technical Assistance; up to eight million dollars ($8,000,000) may be used for Scattered Site Housing; up to seven million two hundred ten thousand dollars ($7,210,000) may be used for Economic Development; up to three million dollars ($3,000,000) may be used for Small Business/Entrepreneurship; up to five million dollars ($5,000,000) shall be used for NC Catalyst; up to nineteen million seven hundred forty thousand dollars ($19,740,000) may be used for Infrastructure; up to six hundred thousand dollars ($600,000) may be used for Capacity Building. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

**SECTION 14.1.(e)** The Department of Commerce shall consult with the Joint Legislative Commission on Governmental Operations prior to reallocating Community Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever the Director of the Budget finds that:

(1) A reallocation is required because of an emergency that poses an imminent threat to public health or public safety, the Director of the Budget may authorize the reallocation without consulting the Commission. The Department of Commerce shall report to the Commission on the reallocation no later than 30 days after it was authorized and shall identify in the report the emergency, the type of action taken, and how it was related to the emergency.

(2) The State will lose federal block grant funds or receive less federal block grant funds in the next fiscal year unless a reallocation is made, the Department of Commerce shall provide a written report to the Commission on the proposed reallocation and shall identify the reason that failure to take action will result in the loss of federal funds. If the Commission does not hear the issue within 30 days of receipt of the report, the Department may take the action without consulting the Commission.

**SECTION 14.1.(f)** By September 1, 2011, the Division of Community Assistance, Department of Commerce, shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of Community Development Block Grant Funds appropriated in the prior fiscal year. The report shall include the following:

(1) A discussion of each of the categories of funding and how the categories were selected, including information on how a determination was made that there was a statewide need in each of the categories.

(2) Information on the number of applications that were received in each category and the total dollar amount requested in each category.

(3) A list of grantees, including the grantee's name, county, category under which the grant was funded, the amount awarded, and a narrative description of the project.

**SECTION 14.1.(g)** For purposes of this section, eligible activities under the category of Infrastructure in subsection (a) of this section are limited to the installation of public water or sewer lines and improvements to water or sewer treatment plants that have specific problems such as being under moratoriums or special orders of consent.

Notwithstanding the provisions of subsection (e) of this section, funds allocated to the Infrastructure category in subsection (a) of this section shall not be reallocated to any other category.

**ONE NORTH CAROLINA FUND**

**SECTION 14.2.(a)** Of the funds appropriated in this act to the One North Carolina Fund for the 2011-2012 fiscal year, the Department of Commerce may use up to two hundred fifty thousand dollars ($250,000) to cover its expenses in administering the One North Carolina Fund and other economic development incentive grant programs during the 2011-2012 fiscal year. The Department of Commerce shall not use more than two hundred fifty thousand dollars ($250,000) for administrative costs in any one fiscal year.

**SECTION 14.2.(b)** G.S. 143B-437.07 reads as rewritten:

"**§ 143B-437.07. Economic development grant reporting.**

(a) Report. – The Department of Commerce must publish on or before March 1 of each year the ~~following information,~~ information required by this subsection, itemized by business entity, ~~for all grant programs administered by the Department that disbursed or awarded grant monies to businesses during the previous calendar year:~~ for each business or joint private venture to which the State has, in whole or in part, granted one or more economic development incentives during the previous five calendar years. The Department must provide the General Assembly with updated supplemental information consistent with this subsection on a quarterly basis in the form and manner requested by the General Assembly. The information in the report must include all of the following:

~~(1) The amount of grant monies awarded during the previous year.~~

~~(2) The amount of grant monies disbursed during the previous year.~~

~~(3) The amount of grant monies that were disbursed in earlier years to business entities that received grant monies during the previous year.~~

~~(4) The amount of potential future liability under the grant program.~~

~~(5) The number, type, and wage level of jobs created or retained during the previous year as a result of a grant.~~

~~(6) A description of any other financial assistance received during the previous year from all economic development incentive programs administered by the Department.~~

~~(7) Any amount recaptured from the business entity during the previous year for failure to comply with the grant agreement or applicable law.~~

(1) A unique project identification number and a unique descriptor or title.

(2) The date of the award agreement.

(3) The name, mailing address, telephone number, and Web site of the business recipient, or recipients if a joint venture, and the physical location of the site receiving the incentive. If the physical location of the site is undecided, then the name of the county in which the site will be located.

(4) The development tier designation of the county in which the site is located on the date the incentive is awarded.

(5) The NAICS six-digit code and NAICS category of business receiving the incentive. The term 'NAICS' has the same meaning as defined in G.S. 105-164.3.

(6) The sources and dollar value of eligible State incentives by program name.

(7) The sources and dollar value of local government funds provided by any locality and the nature of the local funding. Examples of the nature of local funding include cash, fee-waivers, in-kind services, and donation of land, buildings, or other assets.

(8) The intended use of the incentive by any category or categories to which State law restricts or limits uses of incentive funds. If the use of the incentive funds is not restricted, then the intended purpose of the funds.

(9) The amount of incentive monies disbursed taken during the period.

(10) The amount of potential future liability under the applicable incentive program.

(11) The number, type, and wage level of jobs required to be created or retained to receive a disbursement of incentive monies.

(12) The actual full-time equivalent jobs employed by the recipient during the period.

(13) The projected cost per job created or retained, including State and local funds.

(14) Any amount recaptured from the business entity during the period for failure to satisfy the terms of the grant agreement.

(b) Online Posting. – The Department of Commerce must post on its Internet Web site a summary of the report compiled in subsection (a) of this section. The summary report must include the information required by subdivisions (2), (9), (11), and (12) of subsection (a) of this section.

(c) Economic Development Incentive. – An economic development incentive includes any grant program administered by the Department of Commerce that disburses or awards monies to businesses. Examples of these grant programs include the Job Development Investment Grant Program, the Job Maintenance and Capital Development Fund, One North Carolina Fund, and the Industrial Development Fund, including the Utility Account. The State also incents economic development through the use of tax expenditures in the form of tax credits and refunds. The Department of Revenue must report annually on these statutory economic development incentives, as required under G.S. 105-256."

**SECTION 14.2.(c)** Notwithstanding G.S. 143B-437.07, as amended by this act, the Department of Commerce is not required to include information in its annual report relating to economic development incentives provided by local governments prior to July 1, 2011.

**EXTEND DEADLINE FOR TWENTY PERCENT REDUCTION ON PETROLEUM PRODUCTS USE FOR STATE FLEETS/CLARIFY REPORTING REQUIREMENT**

**SECTION 14.2B.(a)** Section 19.5(a) of S.L. 2005-276, as amended by Section 14.14(a) of S.L. 2009-451, reads as rewritten:

"**SECTION 19.5.(a)** All State agencies, universities, and community colleges that have State-owned vehicle fleets shall develop and implement plans to improve the State's use of alternative fuels, synthetic lubricants, and efficient vehicles. The plans shall achieve a twenty percent (20%) reduction or displacement of the current petroleum products consumed by ~~July 1, 2011.~~July 1, 2016. Before implementation of any plan, all affected agencies shall report their plan to the State Energy Office within the Department of Commerce. The State Energy Office shall compile a report on the plans submitted and report to the Joint Legislative Commission on Governmental Operations. Agencies shall implement their plans by January 1, 2006. Reductions may be met by petroleum or oils displaced through the use of biodiesel, ethanol, synthetic oils or lubricants, other alternative fuels, the use of hybrid electric vehicles, other fuel-efficient or low-emission vehicles, or additional methods as may be approved by the State Energy Office, thereby reducing the amount of harmful emissions. The plan shall not impede mission fulfillment of the agency and shall specifically address a long-term cost-benefit analysis, allowances for changes in vehicle usage, total miles driven, and exceptions due to technology, budgetary limitations, and emergencies."

**SECTION 14.2B.(b)** Section 19.5(c) of S.L. 2005-276, as amended by Section 14.14(b) of S.L. 2009-451, reads as rewritten:

"**SECTION 19.5.(c)** Agencies shall report by September 1, 2006, and annually thereafter through ~~September 1, 2011,~~September 1, 2016, to the State Energy Office within the Department of Commerce on the efforts undertaken to achieve the reductions. The State Energy Office shall compile and forward a report to the Joint Legislative Commission on Governmental Operations by November 1, 2006, and annually thereafter through ~~November 1, 2011,~~November 1, 2016, on the agencies' progress in meeting their plans."

**STATUS OF TRAVEL AND TOURISM INDUSTRY IN NC/ANNUAL REPORT**

**SECTION 14.3.** G.S. 143B-434.2(d) reads as rewritten:

"(d) The Department of Commerce, and the Division of Tourism, Film, and Sports Development within that Department, shall implement the policies set forth in this section. The Division of Tourism, Film, and Sports Development shall make an annual report to the General Assembly regarding the status of the travel and tourism industry in North Carolina; the report shall be submitted to the General Assembly by ~~January 15~~October 15 of each year beginning ~~January 15, 1992.~~October 15, 2011. The duties and responsibilities of the Department of Commerce through the Division of Tourism, Film, and Sports Development shall be to:

...."

**WINE AND GRAPE GROWERS COUNCIL ELIMINATED**

**SECTION 14.3B.** Part 2J of Article 10 of Chapter 143B of the General Statutes is repealed.

**21ST CENTURY COMMUNITIES PROGRAM ELIMINATED/CONFORMING CHANGES**

**SECTION 14.3C.** Part 2K of Article 10 of Chapter 143B of the General Statutes reads as rewritten:

"Part 2K. North Carolina Certified Retirement Community Program.

"**§ 143B-437.100. North Carolina Certified Retirement Community Program – creation; powers and duties.**

(a) Program. – There is established the North Carolina Certified Retirement Community Program as part of the ~~21st Century Communities program of the~~ North Carolina Department of Commerce. The Department shall coordinate the development and planning of the North Carolina Certified Retirement Community Program with other State and local groups interested in participating in and promoting the North Carolina Certified Retirement Community Program. The Department shall adopt administrative rules to implement the provisions of this Part. For purposes of this Part, "Department" means the North Carolina Department of Commerce, and "Program" means the North Carolina Certified Retirement Community Program.

(b) Purpose. – The purpose of the Program is to encourage retirees and those planning to retire to make their homes in North Carolina. In order to further this purpose, the Department shall engage in the following activities:

(1) Promote the State as a retirement destination to retirees and those persons and families who are planning retirement both in and outside of North Carolina.

(2) Assist North Carolina communities in their efforts to market themselves as retirement locations and to develop communities that retirees would find attractive for a retirement lifestyle.

(3) Assist in the development of retirement communities and continuing care facilities under Article 64 of Chapter 58 of the General Statutes in order to promote economic development and a potential workforce to enrich North Carolina communities.

(4) Encourage mature market travel and tourism to North Carolina to evaluate future retirement desirability and to visit those who have chosen to retire in North Carolina.

(c) Factors. – The Department shall identify factors that are of interest to retirees or potential retirees in order to inform them of the benefits of living in North Carolina. These factors shall be used to develop a scoring system to determine whether an applicant will qualify as a North Carolina certified retirement community and may include the following:

(1) North Carolina's State and local tax structure.
(2) Housing opportunities and cost.
(3) Climate.
(4) Personal safety.
(5) Working opportunities.
(6) Health care and continuing care services.
(7) Transportation.
(8) Continuing education.
(9) Leisure living.
(10) Recreation.
(11) The performing arts.
(12) Festivals and events.
(13) Sports.
(14) Other services and facilities necessary to enable persons to age in the community with a minimum of restrictions.

(d) Certification. – The Department shall establish criteria for qualifying as a North Carolina certified retirement community. To be eligible to obtain certification as a North

Carolina certified retirement community, the community shall meet each of the following requirements:

(1) Be located within 30 miles of a hospital and of emergency medical services.

(2) Take steps to gain the support of churches, clubs, businesses, media, and other entities whose participation will increase the Program's success in attracting retirees or potential retirees.

(3) Establish a retiree attraction committee. The retiree attraction committee shall fulfill or create subcommittees to fulfill each of the following:

a. Conduct a retiree desirability assessment analyzing the community with respect to each of the factors identified by the Department and submit a report of the analysis to the Department.

b. Send a representative of the retirement attraction committee to attend State training meetings conducted by the ~~21st Century Communities program~~ Department during the certification process.

c. Raise funds necessary to run the Program, organize special events, and promote and coordinate the Program with local entities.

d. Establish a community image, evaluate target markets, and develop a marketing and public relations plan designed to accomplish the purpose of the Program.

e. Develop a system that identifies and makes contact with existing and prospective retirees, that provides tour guides when prospects visit the community, and that responds to inquiries, logs contacts made, invites prospects to special community events, and maintains continual contact with prospects until the prospect makes a retirement location decision.

(4) Remit an application fee to the ~~21st Century Communities program~~Department equal to the greater of ten thousand dollars ($10,000) or the product of fifty cents (50¢) multiplied by the population of the community, as determined by the most recent census.

(5) Submit the completed marketing and public relations plan designed to accomplish the purpose of the Program to the Department.

(6) Submit a long-term plan outlining the steps the community will undertake to maintain or improve its desirability as a destination for retirees, including corrections to any services or facilities identified in the retiree desirability assessment.

"**§ 143B-437.101. North Carolina Certified Retirement Community Program – administration.**

(a) Administration and Support. – Upon being certified as a North Carolina certified retirement community, the ~~21st Century Communities program~~Department shall provide the following assistance to the community:

(1) Assistance in the training of local Program staff and volunteers.

(2) Ongoing oversight and guidance in marketing and updating on national retirement trends.

(3) Inclusion in the State's national advertising and public relations campaigns and travel show promotions, including a prominent feature on the Department's Web site.

(4) Eligibility for State financial assistance for brochures, support material, and advertising.

(5) An annual evaluation and progress assessment on maintaining and improving the community's desirability as a home for retirees.

(b) Expiration. – A community's certification under this section expires on the fifth anniversary of the date the initial certification is issued. To be considered for recertification by the ~~21st Century Communities program,~~Department, an applicant community shall submit the following:

(1) A completed new application in accordance with the requirements of this Part.

(2) Data demonstrating the success or failure of the community's efforts to market and promote itself as a desirable location for retirees and potential retirees.

(3) The fee required by G.S. 143B-437.100(d)(4)."

**EMPLOYMENT SECURITY COMMISSION FUNDS**

**SECTION 14.4.(a)** Funds from the Employment Security Commission Reserve Fund shall be available to the Employment Security Commission of North Carolina to use as collateral to secure federal funds and to pay the administrative costs associated with the collection of the Employment Security Commission Reserve Fund surcharge. The total administrative costs paid with funds from the Reserve in the 2011-2012 fiscal year shall not exceed two million five hundred thousand dollars ($2,500,000).

**SECTION 14.4.(b)** There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina the sum of twenty million dollars ($20,000,000) for the 2011-2012 fiscal year to be used for the following purposes:

(1) $19,500,000 for the operation and support of local Employment Security Commission offices.

(2) $200,000 to operate the system that tracks former participants in State education and training programs.

(3) $300,000 to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs.

**SECTION 14.4.(c)** There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed one million dollars ($1,000,000) for the 2011-2012 fiscal year to fund State initiatives not currently funded through federal grants.

**SECTION 14.4.(d)** There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of one million dollars ($1,000,000) for the 2011-2012 fiscal year to fund "Opportunity NC," which provides work-based training opportunities to recipients of unemployment insurance benefits. Opportunity NC must meet all of the following factors:

(1) The training, even though it includes actual operation of the facilities of the employer, is similar to what would be given in a vocational school or academic educational instruction.

(2) The training is for the benefit of the trainee.

(3) The trainees do not displace regular employees, but work under their close observation.

(4) The employer who provides the training derives no immediate advantage from the activities of the trainees, and, on occasion, the employer's operations may actually be impeded.

(5) The trainees are not necessarily entitled to a job at the conclusion of the training period.

(6) The employer and the trainees understand that the trainees are not entitled to wages for the time spent in training.

**SECTION 14.4.(e)** Of the funds credited to and held in the State of North Carolina's account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States pursuant to and in accordance with section 903 of the Social Security Act and pursuant to Title II of Division B of P.L. 111-5, the Assistance for Unemployed Workers and Struggling Families Act, the Employment Security Commission of North Carolina may expend the sum of two hundred five million sixty-three thousand five hundred fifty-two dollars ($205,063,552) as follows: (i) one hundred million dollars ($100,000,000) shall be used to design and build the integrated unemployment insurance benefit and tax accounting system and (ii) the remaining funds shall be used for the operation of the unemployment insurance program.

**TRANSFER EMPLOYMENT SECURITY COMMISSION TO DEPARTMENT OF COMMERCE**

**SECTION 14.5.** The statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of

the Employment Security Commission are transferred to the Department of Commerce with all of the elements of a Type I transfer as defined by G.S. 143A-6.

**EXTEND UNEMPLOYMENT INSURANCE BENEFITS**

**SECTION 14.5A.(a)** G.S. 96-12.01(a1)(4)c. is amended by adding a new sub-sub-subdivision to read:

"3. This section applies as provided under the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) as it existed on December 17, 2010, and is applicable to compensation for weeks of unemployment beginning after December 17, 2010, and ending on or before December 31, 2011, provided that:

I. The average rate of (i) insured unemployment, not seasonally adjusted, equaled or exceeded one hundred twenty percent (120%) of the average of such rates for the corresponding 13-week period ending in all of the preceding three calendar years and equaled or exceeded five percent (5%) or (ii) total unemployment, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds six and one-half percent (6.5%); and

II. The average rate of total unemployment in this State, seasonally adjusted, as determined by the United States Secretary of Labor, for the three-month period referred to in this subsection, equals or exceeds one hundred ten percent (110%) of the average for any of the corresponding three-month periods ending in the three preceding calendar years."

**SECTION 14.5A.(b)** G.S. 96-12.01(a1)(4)e. reads as rewritten:

"(4) There is an "on indicator" for this State for a week if the Commission determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediate preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under this Chapter:

...

e. Total extended benefit amount.

1. The total extended benefit amount payment to any eligible individual with respect to the applicable benefit year shall be the least of the following amounts:

I. Fifty percent (50%) of the total amount of regular benefits which were payable to the individual under this Chapter in the individual's applicable benefit year; or

II. Thirteen times the individual's weekly benefit amount that was payable to the individual under this Chapter for a week of total unemployment in the applicable benefit year.

2. I. Effective with respect to weeks beginning in a high unemployment period, sub-subdivision e.1. of this subdivision shall be applied by substituting:

A. "Eighty percent (80%)" for "fifty percent (50%)" in sub-subdivision e.1.I., and

B. "Twenty" for "thirteen" in sub-subdivision e.1.II.

II. For purposes of sub-subdivision 2.I., the term "high unemployment period" means any period during

which an extended benefit period would be in effect if sub-subdivision c. of this subdivision were applied by substituting "eight percent (8%)" for six and one-half percent (6.5%)".

3. This subdivision applies as provided under the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) as it existed on December 17, 2010, and is applicable to compensation for weeks of unemployment beginning after December 17, 2010, and ending on or before December 31, 2011, provided that:

I. The average rate of total unemployment, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds eight percent (8%); and

II. The average rate of total unemployment in this State, seasonally adjusted, as determined by the United States Secretary of Labor, for the three-month period referred to in this subdivision equals or exceeds one hundred ten percent (110%) of the average for any of the corresponding three-month periods ending in the three preceding calendar years."

**SECTION 14.5A.(c)** The intent of this section is to allow extended benefits to be paid as provided under the Federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 so long as the payment of the benefits does not hinder the State's ability to reduce the debt it owes the federal government to pay unemployment benefits. It is not the intent of this section to pay for the extended benefits with contributions paid by employers under Chapter 96 of the North Carolina General Statutes or with contributions paid by employers under the federal payroll tax that would otherwise be used to pay down the amount borrowed from the federal government by the State to pay unemployment benefits. Nothing in this section obligates the State to pay extended benefits provided by this section with contributions payable under Chapter 96 of the General Statutes or with any other State funds. This section is null and void if the payment of the benefits would divert federal payroll tax revenue payable by North Carolina employers that would otherwise be used to pay down the amount borrowed from the federal government by the State to pay unemployment benefits.

**SECTION 14.5A.(d)** This section becomes effective April 16, 2011, and expires January 1, 2012.

**AGRICULTURAL EMPLOYEES/UNEMPLOYMENT INSURANCE**

**SECTION 14.5B.** G.S. 96-8(5)n. reads as rewritten:

"n. With respect to employment on and after January 1, 1978, any person or employing unit who (a) during any calendar quarter in the current calendar year or the preceding calendar year paid wages of ~~twenty thousand dollars ($20,000)~~fifty thousand dollars ($50,000) or more for agricultural labor, or (b) on each of some 20 days during the current or preceding calendar year, each day being in a different calendar week, employed at least 10 individuals in employment in agricultural labor for some portion of the day. Provided, that with respect to agricultural labor performed by a crew on and after January 1, 1978, the crew leader shall be deemed an employer if (1) either of the requirements set forth in the first sentence of this paragraph are met; and (2) the crew members are not employed by another person within the meaning of the first sentence of this paragraph; (3) and if the crew leader holds a valid certificate of registration under the Migrant and Seasonal Agricultural Worker Protection Act; or substantially all the members of the crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment, which is provided

by the crew leader. For purposes of this paragraph, the term "crew leader" means an individual who (1) furnishes individuals to perform agricultural labor for any other person, (2) pays (either on his behalf or on behalf of such other person) the individuals so furnished by him for the agricultural labor performed by them, and (3) has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person. The farm operator shall be deemed to be the employer of any worker hired by the farm operator; any assignment to work with a crew or under a crew leader notwithstanding. All the workers shall be deemed the employees of the farm operator when the crew leader does not qualify as the employer under the provisions set out in this paragraph."

**DEPARTMENT OF COMMERCE/CONTRACTS RELATED TO EMPLOYMENT SECURITY ORGANIZATIONAL REFORM**

**SECTION 14.5C.** Notwithstanding any other provision of law to the contrary, the Department of Commerce may enter into contracts or, as necessary, enter into sole source contracts to timely obtain recommendations to achieve employment security organizational reform recommendations and savings.

**TRANSFER STATE PORTS AUTHORITY FROM DEPARTMENT OF COMMERCE TO DEPARTMENT OF TRANSPORTATION**

**SECTION 14.6.(a)** The North Carolina State Ports Authority, as contained in Part 10 of Article 10 of Chapter 143B of the General Statutes, is hereby transferred by a Type II transfer to the Department of Transportation. The North Carolina State Ports Authority shall use the State's budgeting, accounting, and human resources systems and shall comply with laws and policies related to submitting budget requests to the Office of State Budget and Management.

**SECTION 14.6.(b)** Part 10 of Article 10 of Chapter 143B of the General Statutes is recodified as Article 20 of Chapter 136 of the General Statutes, G.S. 136-260 through G.S. 136-275.

**SECTION 14.6.(c)** G.S. 120-123 reads as rewritten:

"**§ 120-123. Service by members of the General Assembly on certain boards and commissions.**

No member of the General Assembly may serve on any of the following boards or commissions:

...

(26) The North Carolina State Ports Authority, as established by ~~G.S. 143B-452.~~ G.S. 136-260.

...."

**SECTION 14.6.(d)** G.S. 143-166.13 reads as rewritten:

"**§ 143-166.13. Persons entitled to benefits under Article.**

(a) The following persons who are subject to the Criminal Justice Training and Standards Act are entitled to benefits under this Article:

...

(15) North Carolina Ports Authority Police, Department of ~~Commerce;~~Transportation;

...."

**SECTION 14.6.(e)** G.S. 143B-346 reads as rewritten:

"**§ 143B-346. Department of Transportation – purpose and functions.**

The general purpose of the Department of Transportation is to provide for the necessary planning, construction, maintenance, and operation of an integrated statewide transportation system for the economical and safe transportation of people and goods as provided for by law. The Department shall also provide and maintain an accurate register of transportation vehicles as provided by statutes, and the Department shall enforce the laws of this State relating to transportation safety assigned to the Department. The Department of Transportation shall be responsible for all of the transportation functions of the executive branch of the State as provided by law except those functions delegated to the Utilities ~~Commission, the State Ports~~

~~Authority,~~ Commission and the Commissioners of Navigation and Pilotage as provided for by Chapter 76. The major transportation functions include aeronautics, highways, mass transportation, motor vehicles, and transportation safety as provided for by State law. The Department of Transportation shall succeed to all functions vested in the Board of Transportation and the Department of Motor Vehicles on July 1, 1977."

**SECTION 14.6.(f)** G.S. 143B-431 reads as rewritten:

"**§ 143B-431. Department of Commerce – functions.**

(a) The functions of the Department of Commerce, except as otherwise expressly provided by Article 1 of this Chapter or by the Constitution of North Carolina, shall include:

(1) All of the executive functions of the State in relation to economic development including by way of enumeration and not of limitation, the expansion and recruitment of environmentally sound industry, labor force development, the promotion of and assistance in the orderly development of North Carolina counties and communities, the promotion and growth of the travel and tourism industries, ~~the development of our State's ports,~~and energy resource management and energy policy development;

(2) All functions, powers, duties and obligations heretofore vested in an agency enumerated in Article 15 of Chapter 143A, to wit:

a. The State Board of Alcoholic Control,
b. The North Carolina Utilities Commission,
c. The Employment Security Commission,
d. The North Carolina Industrial Commission,
e. State Banking Commission and the Commissioner of Banks,
f. Savings Institutions Division,
g. Repealed by Session Laws 2001-193, s. 10, effective July 1, 2001.
h. Credit Union Commission,
i. Repealed by Session Laws 2004-199, s. 27(c), effective August 17, 2004.
j. The North Carolina Mutual Burial Association Commission,
k. The North Carolina Rural Electrification Authority,
~~l. The North Carolina State Ports Authority,~~

all of which enumerated agencies are hereby expressly transferred by a Type II transfer, as defined by G.S. 143A-6, to this recreated and reconstituted Department of Commerce; and

(3) All other functions, powers, duties and obligations as are conferred by this Chapter, delegated or assigned by the Governor and conferred by the Constitution and laws of this State. Any agency transferred to the Department of Commerce by a Type II transfer, as defined by G.S. 143A-6, shall have the authority to employ, direct and supervise professional and technical personnel, and such agencies shall not be accountable to the Secretary of Commerce in their exercise of quasi-judicial powers authorized by statute, notwithstanding any other provisions of this ~~Chapter, provided that the authority of the North Carolina State Ports Authority to employ, direct and supervise personnel shall be as provided in Part 10 of this Article.~~Chapter.

...."

**SECTION 14.6.(g)** G.S. 143B-433 reads as rewritten:

"**§ 143B-433. Department of Commerce – organization.**

The Department of Commerce shall be organized to include:

(1) The following agencies:

a. The North Carolina Alcoholic Beverage Control Commission.
b. The North Carolina Utilities Commission.
c. The Employment Security Commission.
d. The North Carolina Industrial Commission.
e. State Banking Commission.
f. Savings Institutions Division.
g. Repealed by Session Laws 2001-193, s. 11, effective July 1, 2001.
h. Credit Union Commission.

i. Repealed by Session Laws 2004-199, s. 27(d), effective August 17, 2004.
j. The North Carolina Mutual Burial Association Commission.
k. North Carolina Cemetery Commission.
l. The North Carolina Rural Electrification Authority.
m. Repealed by Session Laws 1985, c. 757, s. 179(d).
n. North Carolina Science and Technology Research Center.
~~o. The North Carolina State Ports Authority.~~
p. Repealed by Session Laws 2010-180, s. 7(f), effective August 2, 2010.
q. Economic Development Board.
r. Labor Force Development Council.
s., t. Repealed by Session Laws 2000, c. 140, s. 76.(j), effective September 30, 2000.
u. Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes.
v. Repealed by Session Laws 1993, c. 321, s. 313b.

...."

**SECTION 14.6.(h)** G.S. 143B-452, recodified as G.S. 136-260 in subsection (b) of this section, reads as rewritten:

"**§ 136-260. Creation of Authority. – membership; appointment, terms and vacancies; officers; meetings and quorum; compensation.**

(a) The North Carolina State Ports Authority is hereby ~~created.~~created within the Department of Transportation and shall be subject to and under the direct supervision of the Secretary of Transportation. It shall be governed by a board composed of nine members and hereby designated as the Authority. Effective July 1, 1983, it shall be governed by a board composed of 11 members and hereby designated as the Authority. The General Assembly suggests and recommends that no person be appointed to the Authority who is domiciled in the district of the North Carolina House of Representatives or the North Carolina Senate in which a State port is located. Members of the North Carolina Board of Transportation may be appointed to the Authority. The Governor shall appoint seven members to the Authority, and the General Assembly shall appoint two members of the Authority. Effective July 1, 1983, the Authority shall consist of seven persons appointed by the Governor, and four persons appointed by the General Assembly. Effective ~~July 1, 1989,~~July 1, 2011, the Governor shall appoint six members to the Authority, in addition to the Secretary of ~~Commerce,~~Transportation, who shall serve as a voting member of the Authority by virtue of his office. The Secretary of ~~Commerce~~ Transportation shall fill the first vacancy occurring after ~~July 1, 1989,~~July 1, 2011, in a position on the Authority over which the Governor has appointive power.

...."

**SECTION 14.6.(i)** G.S. 146-65 reads as rewritten:

"**§ 146-65. Exemptions from Chapter.**

This Chapter does not apply to any of the following:

(1) The acquisition of highway rights-of-way, borrow pits, or other interests or estates in land acquired for the same or similar purposes, or to the disposition thereof, by the Board of Transportation or the North Carolina Turnpike Authority.
(2) The North Carolina State Ports Authority in exercising its powers under ~~G.S. 143B-452 through G.S. 143B-467.~~G.S. 136-260 through G.S. 136-275."

**SECTION 14.6.(j)** G.S. 150B-1(d) reads as rewritten:

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

...

(11) The North Carolina State Ports Authority with respect to fees established pursuant to ~~G.S. 143B-454(a)(11).~~G.S. 136-262(a)(11).

...."

**SECTION 14.6.(k)** The Revisor of Statutes shall make any other conforming statutory changes that are necessary to reflect the transfer under subsection (a) of this section.

**STUDY COSTS OF SERVICES PROVIDED BY DEPARTMENT OF COMMERCE TO AGENCIES IN THE DEPARTMENT OF COMMERCE**

**SECTION 14.7.(a)** In consultation with the Fiscal Research Division, the Department of Commerce and the ABC Commission, State Banking Commission, Credit Union Division, Cemetery Commission, Utilities Commission, Utilities Commission Public Staff, and the Rural Electrification Authority shall study the following: (i) the types of services provided by the Department of Commerce to each of the agencies during each fiscal year; and (ii) formulas or methods to be used to determine the costs of the services, including the advantages and disadvantages of each formula or method. The Department of Commerce and each of the agencies shall prepare a joint recommendation as to which formula or method to determine the costs of the services should be used. In addition, the Department of Commerce and each of the agencies shall develop a memorandum of understanding that details the services to be provided by the Department of Commerce during each fiscal year.

**SECTION 14.7.(b)** By May 1, 2012, the Department of Commerce shall report the results of the study, including formula or method recommendations, required under subsection (a) of this section, to the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division. By May 1, 2012, the Department of Commerce shall also submit a copy of each memorandum of understanding required under subsection (a) of this section to the Fiscal Research Division.

**INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT**

**SECTION 14.8.** The North Carolina Industrial Commission may retain the additional revenue generated as a result of an increase in the fee charged to parties for the filing of compromised settlements. These funds shall be used for the purpose of replacing existing computer hardware and software used for the operations of the Commission. These funds may also be used to prepare any assessment of hardware and software needs prior to purchase and to develop and administer the needed databases and new Electronic Case Management System, including the establishment of two time-limited positions for application development and support and mainframe migration. The Commission may not retain any fees under this section unless they are in excess of the former two-hundred-dollar ($200.00) fee charged by the Commission for filing a compromised settlement.

**UTILITIES COMMISSION/TERMS OF COMMISSIONERS**

**SECTION 14.8A.(a)** G.S. 62-10 reads as rewritten:

"**§ 62-10. Number; appointment; terms; qualifications; chairman; vacancies; compensation; other employment prohibited.**

(a) The North Carolina Utilities Commission shall consist of seven commissioners who shall be appointed by the Governor subject to confirmation by the General Assembly by joint resolution. The names of commissioners to be appointed by the Governor shall be submitted by the Governor to the General Assembly for confirmation by the General Assembly on or before May 1, of the year in which the terms for which the appointments are to be made are to expire. Upon failure of the Governor to submit names as herein provided, the Lieutenant Governor and Speaker of the House jointly shall submit the names of a like number of commissioners to the General Assembly on or before May 15 of the same year for confirmation by the General Assembly. Regardless of the way in which names of commissioners are submitted, confirmation of commissioners must be accomplished prior to adjournment of the then current session of the General Assembly. This subsection shall be subject to the provisions of subsection (c) of this section.

(b) The terms of the commissioners now serving shall expire at the conclusion of the term for which they were appointed which shall remain as before with two regular eight-year terms expiring on July 1 of each fourth year after July 1, 1965, and the fifth term expiring on July 1 of each eighth year after July 1, 1963. The terms of office of utilities commissioners thereafter shall be ~~eight~~ four years commencing on July 1 of the year in which the predecessor terms expired, and ending on July 1 of the ~~eighth~~ fourth year thereafter.

(c) In order to increase the number of commissioners to seven, the names of two additional commissioners shall be submitted to the General Assembly on or before May 27, 1975, for confirmation by the General Assembly as provided in G.S. 62-10(a). The commissioners so appointed and confirmed shall serve new terms commencing on July 1, 1975,

one of which shall be for a period of two years (with the immediate successor serving for a period of six years), and one of which shall be for a period of two years.

Thereafter, the terms of office of the additional commissioners shall be for ~~eight~~ four years as provided in G.S. 62-10(b).

(d) A commissioner in office shall continue to serve until his successor is duly confirmed and qualified but such holdover shall not affect the expiration date of such succeeding term.

(e) On July 1, 1965, and every four years thereafter, one of the commissioners shall be designated by the Governor to serve as chairman of the Commission for the succeeding four years and until his successor is duly confirmed and qualifies. Upon death or resignation of the commissioner appointed as chairman, the Governor shall designate the chairman from the remaining commissioners and appoint a successor as hereinafter provided to fill the vacancy on the Commission.

(f) In case of death, incapacity, resignation or vacancy for any other reason in the office of any commissioner prior to the expiration of his term of office, the name of his successor shall be submitted by the Governor within four weeks after the vacancy arises to the General Assembly for confirmation by the General Assembly. Upon failure of the Governor to submit the name of the successor, the Lieutenant Governor and Speaker of the House jointly shall submit the name of a successor to the General Assembly within six weeks after the vacancy arises. Regardless of the way in which names of commissioners are submitted, confirmation of commissioners must be accomplished prior to the adjournment of the then current session of the General Assembly.

(g) If a vacancy arises or exists pursuant to either subsection (a) or (c) or (f) of this section when the General Assembly is not in session, and the appointment is deemed urgent by the Governor, the commissioner may be appointed and serve on an interim basis pending confirmation by the General Assembly.

(h) The salary of each commissioner and that of the commissioner designated as chairman shall be set by the General Assembly in the Current Operations Appropriations Act. In lieu of merit and other increment raises paid to regular State employees, each commissioner, including the commissioner designated as chairman, shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. "Service" means service as a member of the Utilities Commission.

(h1) In addition to compensation for their services, each member of the Commission who lives at least 50 miles from the City of Raleigh shall be paid a weekly travel allowance for each week the member travels to the City of Raleigh from the member's home for business of the Commission. The allowance shall be calculated for each member by multiplying the actual round-trip mileage from that member's home to the City of Raleigh by the rate-per-mile which is the business standard mileage rate set by the Internal Revenue Service in Rev. Proc. 93-51, December 27, 1993.

(i) The standards of judicial conduct provided for judges in Article 30 of Chapter 7A of the General Statutes shall apply to members of the Commission. Members of the Commission shall be liable to impeachment for the causes and in the manner provided for judges of the General Court of Justice in Chapter 123 of the General Statutes. Members of the Commission shall not engage in any other employment, business, profession, or vocation while in office.

(j) Except as provided in subsection (h1) of this section, members of the Commission shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a)."

**SECTION 14.8A.(b)** This section becomes effective July 1, 2011, and applies to all vacancies on the Utilities Commission occurring on or after that date.

**STATE-AID REPORTING REQUIREMENTS**

**SECTION 14.10.(a)** The North Carolina Association of Community Development Corporations, North Carolina Institute of Minority Economic Development, Inc., FFA Foundation, Ag in the Classroom, Land Loss Prevention Project, North Carolina Minority Support Center, North Carolina Community Development Initiative, Inc., Councils of Government, High Point Market Authority, and Partnership for the Sounds, Inc., shall do the following:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

**SECTION 14.10.(b)** Remaining allotments after September 1 shall not be released to any nonprofit organization that does not satisfy the reporting requirements provided in subsection (a) of this section.

**SECTION 14.10.(c)** No more than one hundred thousand dollars ($100,000) in State funds shall be used for the annual salary of any one employee of an entity named in subsection (a) of this section.

**GRASSROOTS SCIENCE PROGRAM**

**SECTION 14.11.(a)** The Grassroots Science Program within the Department of Environment and Natural Resources is transferred to the Department of Commerce.

**SECTION 14.11.(b)** Of the funds appropriated in this act to the Department of Commerce for State Aid, the sum of two million eight hundred ninety-nine thousand eight hundred eighty-five dollars ($2,899,885) for the 2011-2012 fiscal year and the sum of two million eight hundred ninety-nine thousand eight hundred eighty-five dollars ($2,899,885) for the 2012-2013 fiscal year is allocated as grants-in-aid for each fiscal year as follows:

| | 2011-2012 | 2012-2013 |
|---|---|---|
| Aurora Fossil Museum | $49,000 | $49,000 |
| Cape Fear Museum | $132,125 | $132,125 |
| Carolina Raptor Center | $92,050 | $92,050 |
| Catawba Science Center | $120,100 | $120,100 |
| Colburn Earth Science Museum, Inc. | $61,170 | $61,170 |
| Core Sound Waterfowl Museum | $49,000 | $49,000 |
| Discovery Place | $543,945 | $543,945 |
| Eastern NC Regional Science Center | $49,000 | $49,000 |
| Fascinate-U | $66,530 | $66,530 |
| Granville County Museum Commission, Inc.–Harris Gallery | $49,000 | $49,000 |
| Greensboro Children's Museum | $110,845 | $110,845 |
| The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc. | $127,695 | $127,695 |
| Highlands Nature Center | $65,050 | $65,050 |
| Imagination Station | $70,600 | $70,600 |
| The Iredell Museums, Inc. | $50,310 | $50,310 |
| Kidsenses | $66,700 | $66,700 |
| Museum of Coastal Carolina | $64,025 | $64,025 |
| The Natural Science Center of Greensboro, Inc. | $152,920 | $152,920 |
| North Carolina Museum of Life and Science | $311,685 | $311,685 |
| Pisgah Astronomical Research Institute | $49,000 | $49,000 |
| Port Discover: Northeastern North Carolina's Center for Hands-On Science, Inc. | $49,000 | $49,000 |
| Rocky Mount Children's Museum | $59,290 | $59,290 |
| Schiele Museum of Natural History and Planetarium, Inc. | $188,370 | $188,370 |
| Sci Works Science Center and Environmental Park of Forsyth County | $120,215 | $120,215 |
| Sylvan Heights Waterfowl Park and Eco-Center | $49,000 | $49,000 |

| | | |
|---|---|---|
| Western North Carolina Nature Center | $92,630 | $92,630 |
| Wilmington Children's Museum | $60,630 | $60,630 |
| Total | $2,899,885 | $2,899,885 |

**SECTION 14.11.(c)** No later than March 1, 2012, the Department of Commerce shall report to the Fiscal Research Division all of the following information for each museum that receives funds under this section:

(1) The actual operating budget for the 2010-2011 fiscal year.
(2) The proposed operating budget for the 2011-2012 fiscal year.
(3) The total attendance at the museum during the 2011 calendar year.

**SECTION 14.11.(d)** No later than March 1, 2013, the Department of Commerce shall report to the Fiscal Research Division all of the following information for each museum that receives funds under this section:

(1) The actual operating budget for the 2011-2012 fiscal year.
(2) The proposed operating budget for the 2012-2013 fiscal year.
(3) The total attendance at the museum during the 2012 calendar year.

**SECTION 14.11.(e)** As a condition for qualifying to receive funding under this section, all of the following documentation shall, no later than November 1 of each year of the 2011-2013 fiscal biennium, be submitted for each museum under this section to the Department of Commerce for fiscal years ending between July 1, 2009, and June 30, 2010, and only those costs that are properly documented under this subsection are allowed by the Department in calculating the distribution of funds under this section:

(1) Each museum under this section shall submit its IRS (Internal Revenue Service) Form 990 to show its annual operating expenses, its annual report, and a reconciliation that explains any differences between expenses as shown on the IRS Form 990 and the annual report.
(2) Each friends association of a museum under this section shall submit its IRS Form 990 to show its reported expenses for the museum, its annual report, and a reconciliation that explains any differences between expenses as shown on the IRS Form 990 and the annual report, unless the association does not have both an IRS Form 990 and an annual report available; in which case, it shall submit either an IRS Form 990 or an annual report.
(3) The chief financial officer of each county or municipal government that provides funds for the benefit of the museum shall submit a detailed signed statement of documented costs spent for the benefit of the museum that includes documentation of the name, address, title, and telephone number of the person making the assertion that the museum receives funds from the county or municipality for the benefit of the museum.
(4) The chief financial officer of each county or municipal government or each friends association that provides indirect or allocable costs that are not directly charged to a museum under this section but that benefit the museum shall submit in the form of a detailed statement enumerating each cost by type and amount that is verified by the financial officer responsible for the completion of the documentation and that includes the name, address, title, and telephone number of the person making the assertion that the county, municipality, or association provides indirect or allocable costs to the museum.

**SECTION 14.11.(f)** As used in subsection (e) of this section, "friends association" means a nonprofit corporation established for the purpose of supporting and assisting a museum that receives funding under this section.

**SECTION 14.11.(g)** No more than one hundred thousand dollars ($100,000) in State funds shall be used for the annual salary of any one employee of an entity named in subsection (b) of this section.

**WAKE FOREST INSTITUTE FOR REGENERATIVE MEDICINE/PROFIT SHARING WITH STATE**

**SECTION 14.12.(a)** Wake Forest University Health Sciences (hereinafter "Wake Forest") shall reimburse the State for State funds appropriated to the Wake Forest Institute of Regenerative Medicine (hereinafter "Institute") by returning to the State five percent (5%) of

the royalty revenue received by the Institute from inventions arising under those research projects to which State funds were allocated by the Institute, subject to the following:

(1) The total amount to be reimbursed to the State shall be limited to the amount of State funds appropriated to the Institute plus simple interest at the rate of four percent (4%) annually from the time of disbursement until reimbursement commences;

(2) Wake Forest shall be entitled to deduct the expenses reasonably incurred in prosecuting, defending, and enforcing patent rights for the invention, except to the extent the expenses are recovered from a third party, before calculating the amount to be paid to the State;

(3) Calculation of the payments to the State shall be based upon royalty revenue proportionate to the State funds used in the research, with budgets developed consistent with federal research funding accounting guidelines; and

(4) Payments shall be used by the State in a manner consistent with Title 35 of the United States Code, section 202, subdivision (c)(7).

**SECTION 14.12.(b)** The Institute shall comply with the following reporting requirements:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

(2) Provide to the Fiscal Research Division a copy of the Institute's annual audited financial statement within 30 days of issuance of the statement.

**SECTION 14.12.(c)** Remaining allotments after September 1 shall not be released to the Institute if it does not satisfy the reporting requirements provided in subsection (b) of this section.

**SECTION 14.12.(d)** No more than one hundred thousand dollars ($100,000) in State funds shall be used for the annual salary of any one employee of the Institute.

**COUNCIL OF GOVERNMENT FUNDS**

**SECTION 14.12A.(a)** Of the funds appropriated in this act to the Department of Commerce, the sum of three hundred forty-three thousand one hundred eighty-seven dollars ($343,187) for the 2011-2012 fiscal year and the sum of two hundred forty-three thousand one hundred eighty-seven dollars ($243,187) for the 2012-2013 fiscal year shall be used only as provided by this section. Each regional council of government or lead regional organization is allocated up to twenty-five thousand dollars ($25,000) for the 2011-2012 and the 2012-2013 fiscal years.

**SECTION 14.12A.(b)** A regional council of government may use funds allocated to it by this section only to assist local governments in grant applications, economic development, community development, support of local industrial development activities, and other activities as deemed appropriate by the member governments.

**SECTION 14.12A.(c)** Funds allocated by this section shall be paid by electronic transfer in two equal installments each fiscal year. Upon receipt of the report required by subsection (e) of this section, the first installment shall be paid no later than September 15 of each year.

**SECTION 14.12A.(d)** Funds allocated by this section shall not be used for payment of dues or assessments by the member governments and shall not supplant funds appropriated by the member governments.

**SECTION 14.12A.(e)** By September 1 of each year, and more frequently as requested, each council of government or lead regional organization shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the General Assembly on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources. Each council of government or lead regional organization shall provide to the Fiscal Research Division of the General Assembly a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

**RTI INTERNATIONAL/REPORTING REQUIREMENTS; USE OF STATE FUNDS**

**SECTION 14.12B.(a)** RTI International shall do the following:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

**SECTION 14.12B.(b)** Remaining allotments after September 1 shall not be released to RTI International if the organization does not satisfy the reporting requirements provided in subsection (a) of this section.

**SECTION 14.12B.(c)** Funds appropriated in this act to RTI International shall be used to support new research that is conducted in the State of North Carolina. Funds appropriated to RTI International for the 2011-2012 fiscal year that are unexpended and unencumbered as of June 30, 2012, shall revert to the General Fund on June 30, 2012.

**SECTION 14.12B.(d)** No more than one hundred thousand dollars ($100,000) in State funds shall be used for the annual salary of any one employee of RTI International.

**E-NC AUTHORITY TO TRANSFER FEDERAL GRANT FOR BROADBAND MAPPING TO NC CENTER FOR GEOGRAPHIC INFORMATION AND ANALYSIS**

**SECTION 14.12C.** The e-NC Authority shall consult with the National Telecommunications and Information Administration to determine the manner in which an orderly transfer of grant funds awarded to the e-NC Authority under the State Broadband Data and Development grant program may be made to the NC Center for Geographic Information and Analysis. The e-NC Authority and the NC Center for Geographic Information and Analysis shall comply with the requirements of the National Telecommunications and Information Administration to ensure that the grant funds are transferred as quickly and as efficiently as possible to prevent any significant disruption in the North Carolina mapping and planning project currently titled NC BRIM, NC Broadband-Rigor in Mapping.

**BIOFUELS CENTER OF NORTH CAROLINA**

**SECTION 14.14.(a)** Of the funds appropriated in this act to the Biofuels Center of North Carolina (Center), the sum of four million dollars ($4,000,000) for each fiscal year in the 2011-2013 biennium shall be allocated as follows:

| | 2011-2012 | 2012-2013 |
|---|---|---|
| General Administration | $897,953 | $897,953 |
| Administration – Projects & Program Delivery | $650,767 | $650,767 |
| Communications & Public Information | $127,200 | $127,200 |
| Grant Program | $1,434,480 | $1,434,480 |
| Targeted Projects & Accelerated Initiatives | $889,600 | $889,600 |

**SECTION 14.14.(b)** The Center shall comply with the following reporting requirements:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

(2) Provide to the Fiscal Research Division a copy of the Center's annual audited financial statement within 30 days of issuance of the statement.

**SECTION 14.14.(c)** Remaining allotments after September 1 shall not be released to the Center if it does not satisfy the reporting requirements provided in subsection (b) of this section.

**SECTION 14.14.(d)** No more than one hundred thousand dollars ($100,000) in State funds shall be used for the annual salary of any one employee of the Center.

**NORTH CAROLINA BIOTECHNOLOGY CENTER**

**SECTION 14.15.(a)** Of the funds appropriated in this act to the North Carolina Biotechnology Center (Center), the sum of sixteen million five hundred seventy-six thousand six hundred fifteen dollars ($16,576,615) for each fiscal year in the 2011-2013 biennium shall be allocated as follows:

(1) Job Creation: Ag Biotech Initiative, Economic and Industrial Development, Regional Offices and Statewide Development, and related activities – $3,569,736;

(2) Science and Commercialization: Science and Technology Development, Centers of Innovation, Business and Technology Development, Education and Training, and related activities – $10,729,550; and

(3) Center Operations: Administration, Professional and Technical Assistance and Oversight, Corporate Communications, Human Resource Management, Financial and Grant Administration, Legal, and Accounting – $2,277,329.

**SECTION 14.15.(b)** Except to provide administrative flexibility, up to ten percent (10%) of each of the allocations in subsection (a) of this section may be reallocated to one or more of the other allocations in subsection (a) of this section if, in the judgment of Center management, the reallocation will advance the mission of the Center.

**SECTION 14.15.(c)** The Center shall comply with the following reporting requirements:

(1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

(2) Provide to the Fiscal Research Division a copy of the Center's annual audited financial statement within 30 days of issuance of the statement.

**SECTION 14.15.(d)** Remaining allotments after September 1 shall not be released to the Center if it does not satisfy the reporting requirements provided in subsection (b) of this section.

**SECTION 14.15.(e)** No more than one hundred thousand dollars ($100,000) in State funds shall be used for the annual salary of any one employee of the Center.

**RURAL ECONOMIC DEVELOPMENT CENTER**

**SECTION 14.16.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of three million three hundred eighty-four thousand six hundred dollars ($3,384,600) for each year in the 2011-2013 biennium shall be allocated as follows:

| | 2011-2012 | 2012-2013 |
|---|---|---|
| Center Administration, Technical Assistance, & Oversight | $1,229,830 | $1,229,830 |
| Research and Demonstration Grants | $277,780 | $277,780 |
| Institute for Rural Entrepreneurship | $108,205 | $108,205 |
| Community Development Grants | $797,360 | $797,360 |
| Microenterprise Loan Program | $146,965 | $146,965 |
| Water/Sewer/Business Development Matching Grants | $662,960 | $662,960 |
| Statewide Water/Sewer Database | $ 75,098 | $ 75,098 |
| Agricultural Advancement Consortium | $ 86,402 | $ 86,402. |

**SECTION 14.16.(b)** Funds allocated in subsection (a) of this section for community development grants shall support development projects and activities within the State's communities. Any new or previously funded community development corporation, as that term is defined in subsection (c) of this section, is eligible to apply for community development grant funds. However, no community development grant funds shall be released to a community development corporation unless the corporation can demonstrate that there are no outstanding or proposed assessments or other collection actions against the corporation for any State or federal taxes, including related penalties, interest, and fees.

**SECTION 14.16.(c)** For purposes of this section, the term "community development corporation" means a nonprofit corporation:

(1) Chartered pursuant to Chapter 55A of the General Statutes;

(2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;
(3) Whose primary mission is to develop and improve low-income communities and neighborhoods and Tier 1 counties through economic and related development;
(4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and
(5) Whose primary function is to act as deal maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small businesses, affordable housing, and jobs designed to produce positive cash flow and curb blight in the targeted community.

**SECTION 14.16.(d)** The Rural Center shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests.

**SECTION 14.16.(e)** In awarding grants under this section, the Rural Center shall give preference to a resident company. For purposes of this section, the term "resident company" means a company that has paid unemployment taxes or income taxes in this State and whose principal place of business is located in this State. An application for a project that serves an economically distressed area shall have priority over a project that does not. A grant to assist with water infrastructure needs is not subject to the provisions of G.S. 143-355.4.

**SECTION 14.16.(f)** By September 1 of each year, and more frequently as requested, the Rural Center shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.

**SECTION 14.16.(g)** No more than one hundred thousand dollars ($100,000) in State funds shall be used for the annual salary of any one employee of the Rural Center.

**RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM**

**SECTION 14.17.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of fifteen million five hundred eighty-eight thousand seven hundred seventy-two dollars ($15,588,772) for each year in the 2011-2013 fiscal biennium shall be allocated as follows:

(1) To continue the North Carolina Infrastructure Program. The purpose of the Program is to provide grants to local governments to construct critical water and wastewater facilities and to provide other infrastructure needs, including technology needs, to sites where these facilities will generate private job-creating investment. The grants under this Program shall not be subject to the provisions of G.S. 143-355.4.
(2) To provide matching grants or loans to local governments in distressed areas that will productively reuse vacant buildings and properties, with priority given to towns or communities with populations of less than 5,000.
(3) To provide grants and technical assistance to reinvigorate the economies of towns with populations of less than 7,500 and to invest in economic innovation that stimulates business and job growth in distressed areas.
(4) Recipients of grant funds appropriated under this section shall contribute a cash match for the grant that is equivalent to at least five percent (5%) of the grant amount. The cash match shall come from local resources and may not be derived from other State or federal grant funds or from funds provided by the Rural Center.

**SECTION 14.17.(b)** In awarding grants under this section, the Rural Center shall give preference to a resident company. For purposes of this section, the term "resident company" means a company that has paid unemployment taxes or income taxes in this State and whose principal place of business is located in this State. An application for a project that serves an economically distressed area shall have priority over a project that does not. A grant to assist with water infrastructure needs is not subject to the provisions of G.S. 143-355.4.

**SECTION 14.17.(c)** During each year of the 2011-2013 fiscal biennium, the Rural Center may use up to three hundred twenty-nine thousand one hundred seventy-eight dollars

($329,178) of the funds appropriated in this act to cover its expenses in administering the North Carolina Economic Infrastructure Program.

**SECTION 14.17.(d)** By September 1 of each year, and more frequently as requested, the Rural Center shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division concerning the progress of the North Carolina Economic Infrastructure Program in the prior State fiscal year.

**OPPORTUNITIES INDUSTRIALIZATION CENTERS FUNDS**

**SECTION 14.18.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of two hundred seventy-one thousand three hundred twenty dollars ($271,320) for each year in the 2011-2013 fiscal biennium shall be equally distributed among the certified Opportunities Industrialization Centers (OI Centers).

**SECTION 14.18.(b)** By September 1 of each year, and more frequently as requested, the Rural Center shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on OI Centers receiving funds pursuant to subsection (a) of this section. The report shall include data for each OI Center on all itemized expenditures and all fund sources for the prior State fiscal year. The report shall also contain a written narrative on prior fiscal year program activities, objectives, and accomplishments that were funded with funds appropriated in subsection (a) of this section.

**SECTION 14.18.(c)** The Rural Center shall ensure that each OI Center complies with the audit and reporting requirements prescribed by G.S. 143C-6-23 and Section 09 North Carolina Administrative Code 03M .0101.

**SECTION 14.18.(d)** No funds appropriated under this act shall be released to an OI Center listed in subsection (a) of this section if the OI Center has any overdue tax debts, as that term is defined in G.S. 105-243.1, at the federal or State level.

**NC SMALL BUSINESS LENDING ENHANCEMENTS**

**SECTION 14.19.(a)** Income-Producing Property Program. – There is created, as a component of the North Carolina Capital Access Program, the Income-Producing Property Program. The purpose of the Income-Producing Property Program is to leverage public investment, along with private sector resources, to stimulate additional financing opportunities for new and existing buildings used for business purposes in North Carolina. The Income-Producing Property Program must require that at least fifty percent (50%) of the commercial property to be financed by it is occupied, as evidenced by lease agreements. The leveraged resources available through the Program will encourage financial institutions to provide additional access to debt capital. Small businesses will be able to use that capital to provide economic opportunity, create jobs, enhance productivity, and spur innovation.

The Income-Producing Property Program must comply with the current guidelines established under the State Small Business Credit Initiative, section 3002 of the 2010 Small Business Jobs Act, Title III, as ratified by the United States Congress, with the exception that Income-Producing property will be eligible for enrollment under the program.

The North Carolina Rural Economic Development Center, Inc., may enter into participating agreements with a financial institution determined to have sufficient lending experience and financial and managerial capacity to participate in the North Carolina Capital Access Program. A financial institution that enters into a participating agreement with the Rural Center becomes eligible to enroll loans under the North Carolina Capital Access Program. To enroll a loan under the Income-Producing Property Program, the borrower of the funds being loaned must have a place of business in North Carolina and the loan proceeds must be used for a business purpose in North Carolina.

The following definitions apply in this subsection:

(1) Financial institution. – An insured depository institution, insured credit union, or community development financial institution (CDFI) that lends capital in the State of North Carolina.

(2) Income-producing property. – Real property held in order to earn income by leasing or letting. Examples of income-producing property include shopping centers, office buildings, and manufacturing plants.

(3) North Carolina Capital Access Program. – Created by the State of North Carolina under authority granted by Section 28.1 of Chapter 769 of the 1993

Session Laws as ratified by the North Carolina General Assembly to provide loan insurance to increase capital to businesses, particularly small- and medium-sized businesses, to foster economic development in North Carolina. The North Carolina Rural Economic Development Center, Inc., was designated to administer the Program.

**SECTION 14.19.(b)** The North Carolina Small Business Express Loan Fund. – There is established the North Carolina Small Business Express Loan Fund. The purpose of the Fund is to provide small loans, ranging from five thousand dollars ($5,000) to twenty-five thousand dollars ($25,000), for the start-up or expansion of small businesses. The Fund will complement the existing Microenterprise Loan Program. To be eligible to borrow money from the Fund, the borrower must have a place of business in North Carolina; meet strict credit requirements determined by the North Carolina Rural Economic Development Center, Inc.; receive approved technical assistance; and plan to use the borrowed funds for a business purpose in North Carolina.

The following definitions apply in this subsection:

(1) Approved technical assistance. – Business planning and assessment services provided by a counselor associated with a program approved by the North Carolina Rural Economic Development Center, Inc. The Rural Center must approve the counseling programs offered by the Small Business & Technology Development Centers, the community college Small Business Centers, and SCORE chapters.

(2) Microenterprise Loan Program. – The program initially funded as a pilot program through the North Carolina General Assembly in 1987 that provides loans ranging up to twenty-five thousand dollars ($25,000) to individuals who have sound ideas for starting or expanding a small business but may not qualify for bank loans.

**SECTION 14.19.(c)** Program Conditions. – The North Carolina Rural Economic Development Center, Inc., will administer the Income-Producing Property Program and the North Carolina Small Business Express Loan Fund. The Rural Center may use up to four percent (4%) of the funds appropriated for these purposes to administer the programs. The Rural Center may not use the funds appropriated for these purposes to compete with financial institutions in making loans to small business borrowers. Based upon actual demand for the programs, the Rural Center Board of Directors may reallocate the funds appropriated for these purposes between the two programs. By September 1 of each year, and more frequently as requested, the Rural Center must report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division concerning the progress of the North Carolina Small Business Lending Enhancements authorized by this section.

## PART XV. JUDICIAL DEPARTMENT

### GRANT FUNDS

**SECTION 15.1.** Notwithstanding G.S. 143C-6-9, the Administrative Office of the Courts may use up to the sum of one million five hundred thousand dollars ($1,500,000) from funds available to the Department to provide the State match needed in order to receive grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

### TRANSFER OF EQUIPMENT AND SUPPLY FUNDS

**SECTION 15.2.** Funds appropriated to the Judicial Department in the 2011-2013 fiscal biennium for equipment and supplies shall be certified in a reserve account. The Administrative Office of the Courts may transfer these funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year. These funds shall not be expended for any other purpose.

### REIMBURSEMENT FOR USE OF PERSONAL VEHICLES

**SECTION 15.3.** Notwithstanding the provisions of G.S. 138-6(a)(1), the Judicial Department, during the 2011-2013 fiscal biennium, may elect to establish a per-mile

reimbursement rate for transportation by privately owned vehicles at a rate less than the business standard mileage rate set by the Internal Revenue Service.

**COLLECTION OF WORTHLESS CHECK FUNDS**

**SECTION 15.4.** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, 2011, for the purchase or repair of office or information technology equipment during the 2011-2012 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the equipment to be purchased or repaired and the reasons for the purchases.

**DISPUTE RESOLUTION FEES**

**SECTION 15.5.** G.S. 7A-38.2(d) reads as rewritten:

"(d) An administrative fee, not to exceed two hundred dollars ($200.00), may be charged by the Administrative Office of the Courts to applicants for certification and annual renewal of certification for mediators and mediation training programs operating under this Article. The fees collected may be used by the Director of the Administrative Office of the Courts to establish and maintain the operations of the Commission and its staff. Notwithstanding the provisions of G.S. 143C-1-2(b), certification and renewal fees collected by the Dispute Resolution Commission are nonreverting and are only to be used at the direction of the Commission."

**WORKLOAD FORMULA FOR SUPERIOR COURT JUDGES/MINUTES MAINTAINED BY THE CLERK OF SUPERIOR COURT TO RECORD CONVENING AND ADJOURNMENT OR RECESS OF COURT**

**SECTION 15.6.(a)** The Administrative Office of the Courts shall use funds available to contract with the National Center for State Courts to develop a workload formula for superior court judges. The results of this formula shall be submitted to the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by December 1, 2011.

**SECTION 15.6.(b)** G.S. 7A-109 is amended by adding a new section to read:

"(a1) The minutes maintained by the clerk pursuant to this subsection shall record the date and time of each convening of court, as well as the date and time of each recess or adjournment of court with no further business before the court."

**SECTION 15.6.(c)** The Administrative Office of the Courts shall provide on a monthly basis the records of the dates and times of convening, recess, and adjournment of court collected by each clerk of superior court pursuant to G.S. 7A-109, as enacted by subsection (b) of this section, to the National Center for State Courts, the Fiscal Research Division, and the Study Committee on Consolidation of Judicial and Prosecutorial Districts created in Section 15.11 of this act.

**STUDY FEASIBILITY OF OFFICE OF PROSECUTORIAL SERVICES**

**SECTION 15.7.(a)** The School of Government at the University of North Carolina at Chapel Hill shall study the feasibility and cost of creating an Office of Prosecutorial Services within the judicial branch. The study shall compare North Carolina's judicial branch structure to that of other states in terms of organizational placement of prosecutorial and defense services within the context of the unified court system and shall also determine the necessary resources and costs required to make an Office of Prosecutorial Services viable as an independent agency under the judicial branch. The School of Government shall submit the report by April 1, 2012, to the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety.

**SECTION 15.7.(b)** The Conference of District Attorneys may use funds available during the 2011-2012 fiscal year to contract for fiscal management and analysis services to analyze the differences between budgeted and actual position and associated costs in prosecutors' offices.

**ENSURE MINIMUM NUMBER OF CLERK OF COURT STAFF**

**SECTION 15.8.** G.S. 7A-102(a) reads as rewritten:

"(a) The numbers and salaries of assistant clerks, deputy clerks, and other employees in the office of each clerk of superior court shall be determined by the Administrative Officer of the Courts after consultation with the clerk concerned. However, no office of clerk of superior court shall have fewer than five total staff positions in addition to the elected clerk of superior court. All personnel in the clerk's office are employees of the State. The clerk appoints the assistants, deputies, and other employees in the clerk's office to serve at his or her pleasure. Assistant and deputy clerks shall take the oath of office prescribed for clerks of superior court, conformed to the office of assistant or deputy clerk, as the case may be. Except as provided by subsection (c2) of this section, the job classifications and related salaries of each employee within the office of each superior court clerk shall be subject to the approval of the Administrative Officer of the Courts after consultation with each clerk concerned and shall be subject to the availability of funds appropriated for that purpose by the General Assembly."

**STUDY INFRACTIONS AND WAIVABLE OFFENSES**

**SECTION 15.9.** The Revenue Laws Study Committee shall study the penalties and fines for infractions and waivable offenses and determine whether the current amounts are at a level appropriate for the associated offenses. The Committee shall report its findings, together with any recommended legislation, to the 2012 Regular Session of the 2011 General Assembly upon its convening.

**WAIVER OF CRIMINAL COURT COSTS ONLY WHEN JUDGE MAKES FINDING OF JUST CAUSE TO GRANT WAIVER**

**SECTION 15.10.(a)** G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and ~~collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no~~collected. No costs may be assessed when a case is dismissed. Costs under this section may not be waived unless the judge makes a written finding of just cause to grant such a waiver.

...."

**SECTION 15.10.(b)** The Administrative Office of the Courts shall make the necessary modifications to its information systems to maintain records of all cases in which the judge makes a finding of just cause to grant a waiver of criminal court costs under G.S. 7A-304(a) and shall report on those waivers to the Joint Legislative Commission on Governmental Operations by October 1 of each year.

**STUDY CONSOLIDATION OF JUDICIAL AND PROSECUTORIAL DISTRICTS**

**SECTION 15.11.(a)** Creation. – There is created the Study Committee on Consolidation of Judicial and Prosecutorial Districts. The Committee shall consist of 10 members to be appointed as follows:

(1) Four members of the House of Representatives appointed by the Speaker of the House of Representatives.

(2) Four members of the Senate appointed by the President Pro Tempore of the Senate.

(3) Two members who are knowledgeable about the operations of district attorneys' offices, one appointed by the Speaker of the House of Representatives and one appointed by the President Pro Tempore of the Senate.

The Speaker of the House of Representatives shall designate one representative as cochair, and the President Pro Tempore of the Senate shall designate one senator as cochair. Vacancies on the Committee shall be filled by the same appointing authority making the initial appointment.

The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Committee may meet at any time upon the joint call of the cochairs. The Committee may meet in the Legislative Building or the Legislative Office Building.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. The House of

Representatives and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee. Members of the Committee shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

**SECTION 15.11.(b)** Duties. – The Committee shall study the number and structure of judicial and prosecutorial districts in the State and shall make recommendations to reduce those districts by consolidation to increase efficiency and improve the quality of justice. Those recommendations shall, to the extent deemed feasible by the Committee, provide for judicial and prosecutorial district plans that are identical.

**SECTION 15.11.(c)** Report. – The Committee may make a final report, including any proposed legislation, to the 2012 Regular Session of the 2011 General Assembly upon its convening. The Committee shall terminate upon filing its final report or upon the convening of the 2012 Regular Session of the 2011 General Assembly, whichever is earlier.

**STATEWIDE ADMINISTRATIVE COURT SESSIONS**

**SECTION 15.11A.** The Administrative Office of the Courts shall develop protocols to offer regular Administrative Court sessions in each district court district in the State for the purpose of hearing Chapter 20 infractions. Each district shall offer Administrative Court regularly by October 1, 2011. The Administrative Office of the Courts shall report to the Joint Legislative Commission on Governmental Operations on the scheduling and deployment of resources by February 1, 2012.

**OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS/EXPANSION OF PUBLIC DEFENDER OFFICES**

**SECTION 15.16.(a)** The Judicial Department, Office of Indigent Defense Services, may use up to the sum of two million one hundred fifty thousand dollars ($2,150,000) in appropriated funds during the 2011-2012 fiscal year for the expansion of existing offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services, for the creation of new public defender offices within existing public defender programs, or for the establishment of regional public defender programs. Notwithstanding the defender districts established by G.S. 7A-498.7, the Office of Indigent Defense Services may use a portion of these funds to create positions within existing public defender programs to handle cases in adjacent counties or districts. These funds may be used to create up to 50 new attorney positions and 25 new support staff positions during the 2011-2012 fiscal year and for the salaries, benefits, equipment, and related expenses for these positions in both years of the biennium. Positions creation will be staggered across the two years of the biennium. Prior to using funds for this purpose, the Office of Indigent Defense Services shall report to the Chairs of the House of Representatives and the Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion.

**SECTION 15.16.(b)** G.S. 7A-498.7(b) reads as rewritten:

"(b) For each new term, and to fill any vacancy, public defenders shall be appointed from a list of not less than two and not more than three names nominated by written ballot of the attorneys resident in the defender district who are licensed to practice law in North Carolina. The balloting shall be conducted pursuant to rules adopted by the Commission on Indigent Defense Services. The appointment shall be made by the ~~senior resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-41.1 that includes the county or counties of the defender district for which the public defender is being appointed.~~Commission on Indigent Defense Services."

**SECTION 15.16.(c)** The Office of Indigent Defense Services shall issue a request for proposals from private law firms or not-for-profit legal representation organizations for the provision of all legal services for indigent clients in all judicial districts. The Office of Indigent Defense Services shall report on the issuance of this request for proposals to the Joint Legislative Commission on Governmental Operations by October 1, 2011. In cases where the proposed contract can provide representation services more efficiently than current costs, the Office of Indigent Defense Services shall use private assigned counsel funds to enter into contracts for this purpose.

**OFFICE OF INDIGENT DEFENSE SERVICES REPORT**

**SECTION 15.17.** The Office of Indigent Defense Services shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on:

(1) The volume and cost of cases handled in each district by assigned counsel or public defenders;

(2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense, including the capital case program;

(3) Plans for changes in rules, standards, or regulations in the upcoming year; and

(4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services, including any recommendations concerning the feasibility and desirability of establishing regional public defender offices.

**AUDIT OF FARMWORKER LEGAL AID PROGRAM**

**SECTION 15.18.** The State Auditor shall conduct a financial audit of the Farmworker Legal Aid program of Legal Aid of North Carolina. The audit shall include assessments of compliance with all State and federal mandates regarding use of funds under the Access to Civil Justice Act and shall assess whether State and federal funds are commingled in the administration and operation of this legal aid program. The State Auditor shall publish this audit not later than October 1, 2011.

**LIMIT COMPENSATION RATE PAID TO EXPERT WITNESSES BY THE OFFICE OF INDIGENT DEFENSE SERVICES**

**SECTION 15.20.** G.S. 7A-498.5(f) reads as rewritten:

"(f) The Commission shall establish policies and procedures with respect to the distribution of funds appropriated under this Article, including rates of compensation for appointed counsel, schedules of allowable expenses, appointment and compensation of expert witnesses, and procedures for applying for and receiving compensation. The rate of compensation set for expert witnesses may be no greater than the rate set by the Administrative Office of the Courts under G.S. 7A-314(d)."

**TRIAL COURT ADMINISTRATOR POSITIONS**

**SECTION 15.21.** Notwithstanding any other provision of this act, there shall be a trial court administrator position in the following judicial districts: 4, 5, 7B/7C, 10, 12, 14, 18, 21, 26, and 28.

**PART XVI. DEPARTMENT OF JUSTICE**

**USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT**

**SECTION 16.1.(a)** Assets transferred to the Departments of Justice, Correction, and Crime Control and Public Safety during the 2011-2013 fiscal biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those departments. The Departments of Justice, Correction, and Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

**SECTION 16.1.(b)** The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice, the Department of Correction, and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

**SECTION 16.1.(c)** Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice, the

United States Department of the Treasury, and the United States Department of Health and Human Services.

**PURCHASE OF TIME MANAGEMENT SOFTWARE**

**SECTION 16.2.** The Department of Justice shall use funds available to purchase, or purchase licenses for, time management software to be used to ensure adequate record keeping and management of Department attorneys' time. The software shall be of a quality and type generally used by attorneys in the private sector.

**PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES**

**SECTION 16.3.(a)** G.S. 74C-4 is amended by adding a new subsection to read:

"(h) The Board shall pay the appropriate State agency for the use of physical facilities and services provided to it by the State."

**SECTION 16.3.(b)** G.S. 74D-4 is amended by adding a new subsection to read:

"(h) The Board shall pay the appropriate State agency for the use of physical facilities and services provided to it by the State."

**CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS**

**SECTION 16.4.** G.S. 114-8.2 reads as rewritten:

"**§ 114-8.2. Charges for legal services.**

The Department of Justice shall charge State boards and commissions that are totally supported by receipts from fees or surcharges for legal services rendered by the Department to the board or commission. Client State departments, agencies, boards, and commissions shall reimburse the Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other costs directly related to litigation in which the Department of Justice is representing the department, agency, or board."

**HIRING OF SWORN STAFF POSITIONS FOR THE STATE BUREAU OF INVESTIGATION**

**SECTION 16.5.** The Department of Justice may hire sworn personnel to fill vacant positions in the State Bureau of Investigation only in the following circumstances: (i) the position's regular responsibilities involve warrant executions, property searches, criminal investigations, or arrest activities that are consistent in frequency with the responsibilities of other sworn agents; (ii) the position is a promotion for a sworn agent who was employed at the State Bureau of Investigation prior to July 1, 2007; (iii) the position is a forensic drug chemist position which requires "responding to clandestine methamphetamine laboratories" as a primary duty; (iv) the position is a forensic impressions analyst position which requires "responding to clandestine methamphetamine laboratories" as a primary duty; or (v) the position primarily involves supervising sworn personnel.

**CRIMINAL INFORMATION DATABASE STUDY**

**SECTION 16.6.** The Department of Justice shall issue a request for information to determine the cost to have a private company maintain the software required for criminal information databases managed by the Criminal Information Division. The Department of Justice shall report the results of this request for information to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety and to the Fiscal Research Division by March 1, 2012.

## PART XVII. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

**STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS**

**SECTION 17.1.** Funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the 2011-2012 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding

federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report to the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 2011-2012 fiscal year, the amount of funds anticipated for the 2012-2013 fiscal year, and the allocation of funds by program and purpose.

**ANNUAL EVALUATION OF COMMUNITY PROGRAMS**

**SECTION 17.2.** The Department of Juvenile Justice and Delinquency Prevention shall conduct an evaluation of the wilderness camp programs and of multipurpose group homes.

In conducting the evaluation of each of these programs, the Department shall consider whether participation in each program results in a reduction of court involvement among juveniles. The Department also shall identify whether the programs are achieving the goals and objectives of the Juvenile Justice Reform Act, S.L. 1998-202. The Department shall report the results of the evaluation to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the chairs of the Senate and House of Representatives Appropriations Committees and the chairs of the Subcommittees on Justice and Public Safety of the Senate and House of Representatives Appropriations Committees by March 1 of each year.

**ALLOCATE REALIZED SAVINGS OF WILDERNESS CAMPS TO FUND CERTAIN LEVEL 2 INTERMEDIATE DISPOSITIONAL ALTERNATIVES FOR JUVENILES**

**SECTION 17.3.(a)** If any funds appropriated by this act to the Department of Juvenile Justice and Delinquency Prevention for the 2011-2013 fiscal biennium for wilderness camps are not required for or expended for wilderness camps, then those funds shall be allocated to the Juvenile Crime Prevention Council grants fund to be used for the Level 2 intermediate dispositional alternatives for juveniles listed in G.S. 7B-2506(13) through (23).

**SECTION 17.3.(b)** The Department of Juvenile Justice and Delinquency Prevention shall submit an electronic report by October 1, 2011, on all expenditures made from the miscellaneous contract line in Fund Code 1310 to the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Fiscal Research Division of the General Assembly. The report shall include all of the following: an itemized list of the contracts that have been executed, the amount of each contract, the date the contract was executed, the purpose of the contract, the number of juveniles that will be served and the manner in which they will be served, the amount of money transferred to the Juvenile Crime Prevention Council fund, and an itemized list of grants allocated from the funds transferred to the Juvenile Crime Prevention Council fund.

**JUVENILE CRIME PREVENTION COUNCIL FUNDS**

**SECTION 17.4.(a)** On or before October 1 of each year, the Department of Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative Commission on Governmental Operations and the Appropriations Committees of the Senate and House of Representatives a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Department for local Juvenile Crime Prevention Council (JCPC) grants, including the following:

(1) The amount of the grant awarded.
(2) The membership of the local committee or council administering the award funds on the local level.
(3) The type of program funded.
(4) A short description of the local services, programs, or projects that will receive funds.
(5) Identification of any programs that received grant funds at one time but for which funding has been eliminated by the Department.
(6) The number of at-risk, diverted, and adjudicated juveniles served by each county.
(7) The Department's actions to ensure that county JCPCs prioritize funding for dispositions of intermediate and community-level sanctions for

court-adjudicated juveniles under minimum standards adopted by the Department.

(8) The total cost for each funded program, including the cost per juvenile and the essential elements of the program.

An electronic copy of the list and other information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly.

**SECTION 17.4.(b)** Of the funds appropriated by this act for the 2011-2012 fiscal year to the Department of Juvenile Justice and Delinquency Prevention for Juvenile Crime Prevention Council grants, the sum of one hundred twenty-one thousand six hundred dollars ($121,600) shall be transferred to Project Challenge North Carolina, Inc., to be used for the continued support of Project Challenge programs throughout the State.

**FUNDING FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION EDUCATION PROGRAMMING**

**SECTION 17.5.** The Department of Juvenile Justice and Delinquency Prevention shall work with the Department of Public Instruction to identify all education fund sources that can be used to cover education programming costs of the Department of Juvenile Justice and Delinquency Prevention.

The Department of Juvenile Justice and Delinquency Prevention shall report by March 1, 2012, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee regarding its findings and recommendations.

**DJJDP AND DOC JOINT EFFORT TO MAKE IN-HOME MONITORING AVAILABLE AS ALTERNATIVE TO DETENTION FOR JUVENILES**

**SECTION 17.6.** It is the intent of the General Assembly to reduce the State's reliance on detention facilities and youth development centers in the Department of Juvenile Justice and Delinquency Prevention as correctional options for juveniles by increasing the use of community-based alternatives whenever possible. Therefore, the Department of Juvenile Justice and Delinquency Prevention and the Department of Correction shall work together to increase the use of in-home monitoring as an alternative to detention for juveniles. The Department of Correction and the Department of Juvenile Justice and Delinquency Prevention shall assess the monitoring needs for both the adult and juvenile systems, identify the contracts that the Department of Correction currently has for monitoring services, and determine which contracts, if any, may be negotiated or renegotiated to cover monitoring services for both the adult and juvenile systems. The Department of Juvenile Justice and Delinquency Prevention and the Department of Correction may also identify other options to increase the use of in-home monitoring as an alternative to detention for juveniles that may work well and be cost-effective.

The Department of Juvenile Justice and Delinquency Prevention and the Department of Correction shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Fiscal Research Division regarding their findings and recommendations by September 1, 2011.

**TREATMENT STAFFING MODEL AT YOUTH DEVELOPMENT CENTERS**

**SECTION 17.7.** The Department shall implement the staffing treatment model presented to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee as part of the Department's November 14, 2006, report regarding the joint use with the Department of Correction of the Swannanoa Youth Development Center campus.

The staffing levels of the new youth development centers shall be capped at 66 staff for a 32-bed facility and 198 staff for the 96-bed facility for the 2011-2013 fiscal biennium. Staffing ratios shall be no more than 2.1 staff per every juvenile committed at every other existing youth development center.

**YOUTH DEVELOPMENT CENTER ANNUAL REPORT**

**SECTION 17.8.** The Department of Juvenile Justice and Delinquency Prevention shall report by October 1 of each year to the Chairs of the House of Representatives and Senate

Appropriations Subcommittees on Justice and Public Safety, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Fiscal Research Division on the Youth Development Center (YDC) population, staffing, and capacity in the preceding fiscal year. Specifically, the report shall include all of the following:

(1) The on-campus population of each YDC, including the county the juveniles are from.
(2) The housing capacity of each YDC.
(3) A breakdown of staffing for each YDC, including number, type of position, position title, and position description.
(4) The per-bed and average daily population cost for each facility.
(5) The operating cost for each facility, including personnel and nonpersonnel items.
(6) A brief summary of the treatment model, education, services, and plans for reintegration into the community offered at each facility.
(7) The average length of stay in the YDCs.
(8) The number of incidents of assaults/attacks on staff at each facility.

**DJJDP FACILITY MONTHLY COMMITMENT REPORT**

**SECTION 17.9.** The Department of Juvenile Justice and Delinquency Prevention shall report electronically on the first day of each month to the Fiscal Research Division regarding each juvenile correctional facility and the average daily population for the previous month. The report shall include (i) the average daily population for each detention center and (ii) the monthly summary of the Committed Youth Report.

**USE OF INMATE LABOR FOR REPAIR AND RENOVATION OF YOUTH DEVELOPMENT CENTERS**

**SECTION 17.10.(a)** The Department of Juvenile Justice and Delinquency Prevention and the Department of Correction in consultation with the Governor's Crime Commission shall establish policies regarding the appropriate use of inmate construction crews provided by the Department of Correction for repair and renovation projects located on property owned or controlled by the Department of Juvenile Justice and Delinquency Prevention. The policies shall require that a sight and sound barrier be maintained between the adults and juveniles at the center at any time that inmate construction crews are used for repair and renovation projects on property owned or controlled by the Department of Juvenile Justice and Delinquency Prevention. The policies shall be developed and ready for implementation by September 1, 2011.

**SECTION 17.10.(b)** Effective September 1, 2011, and notwithstanding G.S. 148-26(f), the Department of Juvenile Justice and Delinquency Prevention and the Department of Correction may use inmate construction crews provided by the Department of Correction for repair and renovation projects located on property owned or controlled by the Department of Juvenile Justice and Delinquency Prevention pursuant to the policies developed and implemented under subsection (a) of this section.

**ALLOCATE FUNDS FOR REPAIRS AND RENOVATIONS TO STONEWALL JACKSON AND C.A. DILLON YOUTH DEVELOPMENT CENTERS**

**SECTION 17.11.** Of the funds appropriated by this act to the Department of Juvenile Justice and Delinquency Prevention for the 2011-2012 fiscal year, the sum of two million three hundred thirty thousand nine hundred dollars ($2,330,900) shall be allocated to the Stonewall Jackson Youth Development Center, and the sum of one million five hundred thirty-one thousand dollars ($1,531,000) shall be allocated to the C.A. Dillon Youth Development Center to be used for repairs and renovations that (i) will increase operational capacity at those facilities and (ii) satisfy the requirements of G.S. 143C-4-3(b). This allocation is separate from and in addition to any allocation of funds that might be made pursuant to Section 30.5 of this act.

**JUVENILE ASSESSMENT CENTER FUNDS**

**SECTION 17.12.** Of the funds appropriated by this act for the 2011-2012 fiscal year and for the 2012-2013 fiscal year to the Department of Juvenile Justice and Delinquency Prevention for the operation of the Cumberland Regional Juvenile Detention Center the sum of

one hundred twenty-four thousand seventy-five dollars ($124,075) shall be used for the Juvenile Assessment Center in each fiscal year.

## PART XVIII. DEPARTMENT OF CORRECTION

### FEDERAL GRANT REPORTING

**SECTION 18.1.** The Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, the Judicial Department, and the Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on federal grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

### FEDERAL GRANT MATCHING FUNDS

**SECTION 18.2.** Notwithstanding the provisions of G.S. 143C-6-9, the Department of Correction may use up to the sum of one million two hundred thousand dollars ($1,200,000) during the 2011-2012 fiscal year and up to the sum of one million two hundred thousand dollars ($1,200,000) during the 2012-2013 fiscal year from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

### USE OF CLOSED PRISON FACILITIES

**SECTION 18.3.** In conjunction with the closing of prison facilities, including small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is located, with the elected State and local officials, and with State and federal agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. In developing a proposal for future use of each unit, the Department shall give priority to converting the unit to other criminal justice use. Consistent with existing law and the future needs of the Department of Correction, the State may provide for the transfer or the lease of any of these units to counties, municipalities, State agencies, federal agencies, or private firms wishing to convert them to other use. The Department of Correction may also consider converting some of the units recommended for closing from one security custody level to another, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

### LIMIT USE OF OPERATIONAL FUNDS

**SECTION 18.4.** Funds appropriated in this act to the Department of Correction for operational costs for additional facilities shall be used for personnel and operating expenses set forth in the budget approved by the General Assembly in this act. These funds shall not be expended for any other purpose, except as provided for in this act, and shall not be expended for additional prison personnel positions until the new facilities are within 120 days of projected completion, except that the Department may establish critical positions prior to 120 days of completion representing no more than twenty percent (20%) of the total estimated number of positions.

**REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM**

**SECTION 18.5.** Notwithstanding G.S. 143C-6-9, the Department of Correction may use funds available to the Department for the 2011-2013 fiscal biennium to pay the sum of forty dollars ($40.00) per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

**CENTER FOR COMMUNITY TRANSITIONS/CONTRACT AND REPORT**

**SECTION 18.6.** The Department of Correction may continue to contract with The Center for Community Transitions, Inc., a nonprofit corporation, for the purchase of prison beds for minimum security female inmates during the 2011-2013 fiscal biennium. The Center for Community Transitions, Inc., shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the annual cost per inmate and the average daily inmate population compared to bed capacity using the same methodology as that used by the Department of Correction.

**PAROLE ELIGIBILITY REPORT/MUTUAL AGREEMENT PAROLE PROGRAM/MEDICAL RELEASE PROGRAM**

**SECTION 18.7.(a)** The Post-Release Supervision and Parole Commission shall, with the assistance of the North Carolina Sentencing and Policy Advisory Commission and the Department of Correction, analyze the amount of time each inmate who is eligible for parole on or before July 1, 2012, has served compared to the time served by offenders under Structured Sentencing for comparable crimes. The Commission shall determine if the person has served more time in custody than the person would have served if sentenced to the maximum sentence under the provisions of Article 81B of Chapter 15A of the General Statutes. The "maximum sentence," for the purposes of this section, shall be calculated as set forth in subsection (b) of this section.

**SECTION 18.7.(b)** For the purposes of this section, the following rules apply for the calculation of the maximum sentence:

(1) The offense upon which the person was convicted shall be classified as the same felony class as the offense would have been classified if committed after the effective date of Article 81B of Chapter 15A of the General Statutes.

(2) The minimum sentence shall be the maximum number of months in the presumptive range of minimum durations in Prior Record Level VI of G.S. 15A-1340.17(c) for the felony class determined under subdivision (1) of this subsection. The maximum sentence shall be calculated using G.S. 15A-1340.17(d), (e), or (e1).

(3) If a person is serving sentences for two or more offenses that are concurrent in any respect, then the offense with the greater classification shall be used to determine a single maximum sentence for the concurrent offenses. The fact that the person has been convicted of multiple offenses may be considered by the Commission in making its determinations under subsection (a) of this section.

**SECTION 18.7.(c)** The Post-Release Supervision and Parole Commission shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 1, 2012. The report shall include the following: the class of the offense for which each parole-eligible inmate was convicted and

whether an inmate had multiple criminal convictions. The Commission shall reinitiate the parole review process for each offender who has served more time than that person would have under Structured Sentencing as provided by subsections (a) and (b) of this section.

The Commission shall also report on the number of parole-eligible inmates reconsidered in compliance with this section and the number who were actually paroled.

**SECTION 18.7.(d)** The Department of Correction and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the number of inmates enrolled in the mutual agreement parole program, the number completing the program and being paroled, and the number who enrolled but were terminated from the program. The information should be based on the previous calendar year.

**SECTION 18.7.(e)** The Department of Correction and the Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the number of inmates proposed for release, considered for release, and granted release under Chapter 84B of Chapter 15A of the General Statutes, providing for the medical release of inmates who are either permanently and totally disabled, terminally ill, or geriatric.

**CRIMINAL JUSTICE PARTNERSHIP**

**SECTION 18.8.(a)** Notwithstanding any other provision of law, a county may use funds appropriated pursuant to the Criminal Justice Partnership Act, Article 6A of Chapter 143B of the General Statutes, to provide more than one community-based corrections program.

**SECTION 18.8.(b)** Effective July 1, 2011, the Department of Correction shall recalculate the county allocation funding formula mandated under G.S. 143B-273.15 using updated data.

**SECTION 18.8.(c)** Notwithstanding the provisions of G.S. 143B-273.15 specifying that grants to participating counties are for the full fiscal year and that unobligated funds are returned to the State-County Criminal Justice Partnership Account at the end of the grant period, the Department of Correction may reallocate unspent or unclaimed funds distributed to counties participating in the State-County Criminal Justice Partnership Program in an effort to maintain the level of services realized in previous fiscal years.

**SECTION 18.8.(d)** The Department of Correction may not deny funds to a county to support both a residential program and a day reporting center if the Department of Correction determines that the county has a demonstrated need and a fully developed plan for each type of sanction.

**SECTION 18.8.(e)** The Department of Correction shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Committees, the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice Partnership Program. The report shall include the following information:

(1) The amount of funds carried over from the prior fiscal year;

(2) The dollar amount and purpose of grants awarded to counties as discretionary grants for the current fiscal year;

(3) Any counties the Department anticipates will submit requests for new implementation grants;

(4) An update on efforts to ensure that all counties make use of the electronic reporting system, including the number of counties submitting offender participation data via the system;

(5) An analysis of offender participation data received, including data on each program's utilization and capacity;

(6) An analysis of comparable programs prepared by the Division of Research and Planning, Department of Correction, including a comparison of programs in each program type on selected outcome measures developed by the Division of Community Corrections in consultation with the Fiscal Research Division and the Division of Research and Planning, and a

summary of the reports prepared by county Criminal Justice Partnerships Advisory Boards;

(7) A review of whether each sentenced offender program is meeting established program goals developed by the Division of Community Corrections in consultation with the Division of Research and Planning and the State Criminal Justice Partnership Advisory Board;

(8) The number of community offenders and intermediate offenders served by each county program;

(9) The amount of Criminal Justice Partnership funds spent on community offenders and intermediate offenders; and

(10) A short description of the services and programs provided by each partnership, including who the service providers are and the amount of funds each service provider receives.

**SWANNANOA CORRECTIONAL CENTER FOR WOMEN**

**SECTION 18.9.** The Department of Correction shall relocate the fence at Swannanoa Correctional Center for Women so that the school building is located on the side of the campus housing the Department of Correction facilities, and the Department shall retain the sight and sound barrier between the adults and juveniles at the center.

**INMATE MEDICAL COST CONTAINMENT**

**SECTION 18.10.(a)** The Department of Correction shall reimburse those providers and facilities providing approved inmate medical services outside the correctional facility two times the then-current Medicaid rate for any given service.

This section does not apply to vendors providing services that are not billed on a fee-for-service basis, such as temporary staffing. Nothing in this section shall preclude the Department from contracting with a provider for services at rates that provide greater documentable cost avoidance for the State than do the rates contained in this section or at rates that are less favorable to the State but that will ensure the continued access to care.

**SECTION 18.10.(b)** The Department of Correction shall make every effort to contain inmate medical costs by making use of its own hospital and health care facilities to provide health care services to inmates. To the extent that the Department of Correction must utilize other facilities and services to provide health care services to inmates, the Department shall make reasonable efforts to make use of hospitals or other providers with which it has a contract or, if none is reasonably available, hospitals with available capacity or other health care facilities in a region to accomplish that goal. The Department shall make reasonable efforts to equitably distribute inmates among all hospitals or other appropriate health care facilities. With respect to any single hospital, the Department of Correction shall continue to make its best effort to seek admission of the number of inmates representing no more than nine percent (9%) of all inmates requiring hospitalization or hospital services on an annual basis beginning in the 2011-2012 fiscal year, unless the failure to do so would jeopardize the health of an inmate or unless a higher level is agreed to by contract. The Department shall also give preference to those hospitals or other health care facilities in the same county or an adjoining county to the correctional facility where an inmate requiring hospitalization is incarcerated. The Department will continue these efforts until it has reached a number which represents no more than five percent (5%) of all inmates requiring hospitalization or hospital services on an annual basis at any single hospital by July 1, 2013, unless the failure to do so would jeopardize the health of an inmate or unless a higher level is agreed to by contract.

**SECTION 18.10.(c)** G.S. 131E-77 is amended by adding a new subsection to read:

"(a1) As a condition of licensure, hospitals licensed under this Article shall treat inmates in the custody of the Department of Correction, unless a hospital lacks the capacity or capability to provide such treatment."

**SECTION 18.10.(d)** The Department of Correction shall report to the Joint Legislative Commission on Governmental Operations no later than November 1, 2011, and quarterly thereafter on:

(1) The volume of services provided by community medical providers that can be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers; and

(2) The volume of services provided by community medical providers that cannot be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers.

**DEPARTMENT OF CORRECTION RULES FOR INMATE LABOR**

**SECTION 18.12.** G.S. 148-26 is amended by adding a new subsection to read:

"(g) The Department of Correction shall establish rules, standards, and procedures for establishing inmate labor services contracts with any county or municipality expressing interest in contracting for inmate labor."

**REPORT ON PROBATION AND PAROLE CASELOADS**

**SECTION 18.13.(a)** The Department of Correction shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on caseload averages for probation and parole officers. The report shall include:

(1) Data on current caseload averages and district averages for probation/parole officer positions;
(2) Data on current span of control for chief probation officers;
(3) An analysis of the optimal caseloads for these officer classifications;
(4) An assessment of the role of surveillance officers;
(5) The number and role of paraprofessionals in supervising low-risk caseloads;
(6) An update on the Department's implementation of the recommendations contained in the National Institute of Correction study conducted on the Division of Community Corrections in 2004 and 2008;
(7) The process of assigning offenders to an appropriate supervision level based on a risk assessment and an examination of other existing resources for assessment and case planning, including the Sentencing Services Program in the Office of Indigent Defense Services and the range of screening and assessment services provided by the Division of Mental Health, Developmental Disability, and Substance Abuse Services in the Department of Health and Human Services; and
(8) Data on cases supervised solely for the collection of court-ordered payments.

**SECTION 18.13.(b)** The Department of Correction shall conduct a study of probation/parole officer workload. The study shall include analysis of the type of offenders supervised, the distribution of the probation/parole officers' time by type of activity, the caseload carried by the officers, and comparisons to practices in other states. The study shall be used to determine whether the caseload goals established by the Structured Sentencing Act are still appropriate, based on the nature of the offenders supervised and the time required to supervise those offenders.

**SECTION 18.13.(c)** The Department of Correction shall report the results of the study and recommendations for any adjustments to caseload goals to the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by January 1, 2013.

**SECTION 18.13.(d)** The Department of Correction shall report by March 1 of each year to the Chairs of the House and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the following:

(1) The number of sex offenders enrolled on active and passive GPS monitoring.
(2) The caseloads of probation officers assigned to GPS-monitored sex offenders.
(3) The number of violations.
(4) The number of absconders.
(5) The projected number of offenders to be enrolled by the end of the 2011-2012 fiscal year and the end of the 2012-2013 fiscal year.

**REMOVE SUNSET ON CORRECTION ENTERPRISES STATE AND LOCAL EMPLOYEE/RETIREE PURCHASE ALLOWANCE**

**SECTION 18.14.** Section 6 of S.L. 2007-280 reads as rewritten:

"**SECTION 6.** This act becomes effective ~~August 1, 2007, but the first sentence of G.S. 148-127(5) as enacted by this act expires on July 1, 2012.~~August 1, 2007."

## PART XIX. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

## CONSOLIDATE THE DEPARTMENT OF CORRECTION, THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, THE DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, THE STATE BUREAU OF INVESTIGATION, AND THE NORTH CAROLINA JUSTICE ACADEMY INTO THE DEPARTMENT OF PUBLIC SAFETY

### CREATION OF DEPARTMENT

**SECTION 19.1.(a)** The Department of Public Safety is established as a new executive department. All functions, powers, duties, and obligations vested in the following departments and agencies are transferred to, vested in, and consolidated within the Department of Public Safety by a Type I transfer, as defined in G.S. 143A-6:

(1) The Department of Correction.
(2) The Department of Crime Control and Public Safety.
(3) The Department of Juvenile Justice and Delinquency Prevention.
(4) The State Bureau of Investigation, including the North Carolina State Crime Laboratory.
(5) The North Carolina Justice Academy.

**SECTION 19.1.(b)** Chapter 143B of the General Statutes is amended by adding a new Article to read:

"Article 5A.
"Department of Public Safety.
"Part 1. General Provisions.

"**§ 143B-259. Organization.**

(a) There is established the Department of Public Safety. The head of the Department of Public Safety is the Secretary of Public Safety, who shall be known as the Secretary. The appointment of the Secretary shall be subject to confirmation by a Joint Resolution of the General Assembly. Notwithstanding G.S. 147-12(a)(3), a person appointed to fill a vacancy in the position of Secretary shall serve no longer than the thirtieth calendar day after the convening of the next regular session of the General Assembly. The General Assembly may also convene a special session for purposes of considering the confirmation of a person appointed to be the Secretary.

The Department shall consist of seven divisions and an Office of External Affairs as follows:

(1) The Division of Adult Correction, which shall consist of the former Department of Correction. The head of the Division of Adult Correction shall be a chief deputy secretary, who shall be responsible for prisons, community corrections, and correction enterprises.
(2) The Division of Juvenile Justice, which shall consist of the former Department of Juvenile Justice and Delinquency Prevention. The head of the Division of Juvenile Justice shall be a chief deputy secretary, who shall be responsible for youth detention centers, court services, community programs, and youth development centers.
(3) The Division of Law Enforcement, which shall consist of the following former divisions of the Department of Crime Control and Public Safety and the Department of Justice: the State Highway Patrol, the Alcohol Law Enforcement Division, the State Capitol Police Division, and the State Bureau of Investigation. The head of the Division of Law Enforcement shall be a chief deputy secretary.
(4) The Division of Emergency Management.
(5) The National Guard.
(6) The Division of Administration, the head of which shall be a deputy secretary responsible for all administrative functions, including fiscal, auditing, information technology, purchasing, human resources, engineering,

and facility management functions for the Department. Within the Division, there is established a Grants Management Section, which shall consist of the Governor's Crime Commission, the Criminal Justice Partnership Program, and the Juvenile Crime Prevention Council Fund. Other sections within the Division of Administration shall be:

a. The Fiscal and Budget Section.
b. The Victims' Services Section.
c. The Engineering and Facility Management Section.
d. The Purchasing Section.
e. The Human Resources Section.
f. The Research and Policy Section.
g. The Information Technology Section.
h. The Training Section.

(7) The North Carolina State Crime Laboratory, the head of which shall be a director who reports directly to the Secretary.

(8) The Office of External Affairs, which shall be responsible for federal and State liaison activities, victim services, and public affairs.

(b) The powers and duties of the deputy secretaries and the respective divisions shall be subject to the direction and control of the Secretary of Public Safety.

"**§ 143B-259.1. Powers and duties of the Department of Public Safety.**

It shall be the duty of the Department of Public Safety to do all of the following:

(1) Provide assigned law enforcement and emergency services to protect the public against crime and against natural and man-made disasters.

(2) To plan and direct a coordinated effort by the law enforcement agencies of State government and to ensure maximum cooperation between State and local law enforcement agencies in the fight against crime.

(3) To prepare annually a State plan for the State's criminal justice system.

(4) To serve as the State's chief coordinating agency to control crime, to ensure the safety of the public, and to ensure an effective and efficient State criminal justice system.

(5) To have charge of investigations of criminal matters particularly set forth in this Article and of such other crimes and areas of concern in the criminal justice system as the Governor may direct.

(6) To regularly patrol the highways of the State and enforce all laws and regulations respecting travel and the use of vehicles upon the highways of the State and all laws for the protection of the highways of the State.

(7) To provide National Guard troops trained by the State to federal standards.

(8) To ensure the preparation, coordination, and currency of military and civil preparedness plans and the effective conduct of emergency operations by all participating agencies to sustain life and prevent, minimize, or remedy injury to persons and damage to property resulting from disasters caused by enemy attack or other hostile actions or from disasters due to natural or man-made causes.

(9) To develop a plan for a coordinated and integrated electronic communications system for State government and cooperating local agencies, including coordination and integration of existing electronic communications systems.

(10) To carry out the relevant provisions of Part 2 of this Article, Chapter 148 of the General Statutes, Chapter 15 of the General Statutes, Chapter 15A of the General Statutes, and other provisions of the General Statutes governing the provision of necessary custody, supervision, and treatment to control and rehabilitate criminal offenders and thereby reduce the rate and cost of crime and delinquency.

(11) To carry out the relevant provisions of Part 3 of this Article, Chapter 7B of the General Statutes, and other provisions of the General Statutes governing juvenile justice and the prevention of delinquent acts by juveniles.

(12) To provide for the scientific analysis of evidence of crime.

"**§ 143B-259.2. Powers and duties of the Secretary of Public Safety.**

The Secretary of Public Safety shall have the powers and duties as are conferred on the Secretary by this Article, delegated to the Secretary by the Governor, and conferred on the Secretary by the Constitution and laws of this State. These powers and duties include the following:

(1) Provision of assistance to other agencies. – The Secretary, through appropriate subunits of the Department, shall, at the request of the Governor, provide assistance to State and local law enforcement agencies, district attorneys, and judges, when called upon by them and so directed.

(2) Coordination of government subunits emergencies. – In the event that the Governor, in the exercise of the Governor's constitutional and statutory responsibilities, shall deem it necessary to utilize the services of more than one subunit of State government to provide protection to the people from natural or man-made disasters or emergencies, including, but not limited to, wars, insurrections, riots, civil disturbances, or accidents, the Secretary, under the direction of the Governor, shall serve as the chief coordinating officer for the State between the respective subunits so utilized.

(3) Allocation of State resources during emergencies. – Whenever the Secretary exercises the authority provided in subdivision (2) of this section, the Secretary shall be authorized to utilize and allocate all available State resources as are reasonably necessary to cope with the emergency or disaster, including directing of personnel and functions of State agencies or units thereof for the purpose of performing or facilitating the initial response to the disaster or emergency. Following the initial response, the Secretary, in consultation with the heads of the State agencies which have or appear to have the responsibility for dealing with the emergency or disaster, shall designate one or more lead agencies to be responsible for subsequent phases of the response to the emergency or disaster. Pending an opportunity to consult with the heads of such agencies, the Secretary may make interim lead agencies designations.

(4) Reporting of emergencies to the Secretary. – Every department of State government is required to report to the Secretary, by the fastest means practicable, all natural or man-made disasters or emergencies, including, but not limited to, wars, insurrections, riots, civil disturbances, or accidents which appear likely to require the utilization of the services of more than one subunit of State government.

(5) Rule making. – The Secretary is authorized to adopt rules and procedures for the implementation of this section.

(6) Powers of Governor and Council of State not superseded. – Nothing contained in this section shall be construed to supersede or modify those powers granted to the Governor or the Council of State to declare and react to a state of disaster as provided in Chapter 166A of the General Statutes, the Constitution, or elsewhere.

(7) Reporting required prior to grant awards. – Prior to any notification of proposed grant awards to State agencies for use in pursuing the objectives of the Governor's Crime Commission pursuant to sub-subdivisions a. through g. of subdivision (8) of this section, the Secretary shall report to the Senate and House Appropriations Committees for review of the proposed grant awards.

(8) Other powers and duties. – The Secretary shall have the following additional powers and duties:

a. Accepting gifts, bequests, devises, grants, matching funds, and other considerations from private or governmental sources for use in promoting the work of the Governor's Crime Commission.

b. Making grants for use in pursuing the objectives of the Governor's Crime Commission.

c. Adopting rules as may be required by the federal government for federal grants-in-aid for criminal justice purposes and to implement and carry out the regulatory and enforcement duties assigned to the Department of Public Safety as provided by the various commercial

vehicle, oversize/overweight, motor carrier safety, motor fuel, and mobile and manufactured home statutes.

d. Ascertaining the State's duties concerning grants to the State by the Law Enforcement Assistance Administration of the United States Department of Justice, and developing and administering a plan to ensure that the State fulfills its duties.

e. Administering the Assistance Program for Victims of Rape and Sex Offenses.

f. Appointing, with the Governor's approval, a special police officer to serve as Chief of the State Capitol Police Section of the Division of Law Enforcement.

g. Appointing an employee of the Division of Administration to be the central point of contact for any federal surplus property or purchasing programs."

**CREATION OF STATUTORY PARTS AND SUBPARTS**

**SECTION 19.1.(c)** Article 5A of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 4. Division of Law Enforcement."

**SECTION 19.1.(e)** Article 5A of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 5. Division of Emergency Management."

**SECTION 19.1.(f)** Article 5A of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 6. Division of Administration."

**SECTION 19.1.(f1)** Article 5A of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 7. Office of External Affairs."

**CHANGES TO STATUTORY REFERENCES TO AGENCIES**

**SECTION 19.1.(g)** The following statutes are amended by deleting the language "Crime Control and Public Safety" wherever it appears and substituting "Public Safety": G.S. 7A-343.1, 8-50.2, 14-86.1, 14-309.7, 14-309.11, 15B-3, 15B-6, 17C-3, 17C-6, 18B-101, 18B-110, 19-2.1, 20-17.7, 20-39.1, 20-49, 20-79.5, 20-81.12, 20-116, 20-118, 20-119, 20-125, 20-178.1, 20-183.9, 20-183.10, 20-184, 20-185, 20-187, 20-187.1, 20-187.3, 20-188, 20-189, 20-190, 20-191, 20-192, 20-195, 20-196, 20-196.3, 20-196.4, 20-377, 20-379, 20-380, 20-381, 20-382.2, 20-383, 20-387, 20-389, 20-390, 20-391, 20-392, 20-393, 20-396, 20-397, 58-32-1, 58-78-1, 66-165, 66-168, 104E-8, 105-259, 105-269.3, 105-449.44, 120-12.1, 120-70.94, 122C-408, 122C-409, 122C-411, 122C-414, 126-5, 127A-17.1, 127A-19, 127A-20, 127A-21, 127A-22, 127A-35, 127A-40, 127A-42, 127A-43, 127A-54, 127A-57, 127A-80, 127A-81, 127A-107, 127A-139, 127A-161, 127A-162, 127A-163, 127A-164, 127C-2, 130A-475, 143-166.13, 143-215.52, 143-215.56, 143-215.93A, 143-215.94GG, 143-215.94HH, 143-341, 143-355.1, 143-651, 143-652.1, 143-652.2, 143-654, 143-655, 143-658, 143-661, 143-664, 143-726, 143A-79.2, 143A-239, 143A-240, 143A-241, 143A-242, 143A-243, 143A-244, 143A-245, 143B-2, 143B-6, 143B-181, 143B-394.15, 143B-417, 143B-426.22, 143B-477, 143B-478, 143B-479, 143B-480, 143B-480.1, 143B-480.2, 143B-480.3, 143B-490, 143B-491, 143B-492, 143B-495, 143B-496, 143B-497, 143B-498, 143B-499, 143B-499.2, 143B-499.4, 143B-499.7, 143B-508, 143B-508.1, Parts 8 and 9 of Article 11 of Chapter 143B of the General Statutes, 143B-510, 146-30, 147-12, 150B-1, 161-11.4, 164-37, 166A-5, 166A-6, 166A-6.03, 166A-6.1, 166A-14, 166A-18, 166A-21, 166A-26, 166A-28, 166A-60, 166A-61, and 166A-62. In all other instances in which the term "Crime Control and Public Safety" appears in the General Statutes, the Revisor of Statutes shall replace that term with "Public Safety".

**SECTION 19.1.(h)** The following statutes are amended by deleting the language "Department of Correction" wherever it appears and substituting "Division of Adult Correction of the Department of Public Safety" and by deleting the word "Department" when it refers to the Department of Correction and substituting "Division": G.S. 1-110, 7A-109.3, 7A-313, 7A-451, 7A-474.3, 7A-474.18, 7A-498.3, 7B-2204, 7B-2517, 7B-3000, 7B-3001, 7B-3100, 13-1, 14-202, 14-208.6, 14-208.20, 14-208.22, 14-208.40, 14-208.43, 14-208.45, 14-258.1,

14-258.3, 14-258.4, 14-415.10, 15-6.1, 15-10.1, 15-194, 15-196.3, 15-203, 15-204, 15-205, 15-206, 15-209, 15A-145, 15A-145.1, 15A-146, 15A-147, 15A-149, 15A-150, 15A-544.3, 15A-544.5, 15A-615, 15A-821, 15A-830, 15A-832, 15A-1332, 15A-1340.13, 15A-1340.16, 15A-1340.20, 15A-1342, 15A-1343, 15A-1343.2, 15A-1343.3, 15A-1344, 15A-1351, 15A-1352, 15A-1353, 15A-1354, 15A-1355, 15A-1368, 15A-1368.2, 15A-1368.3, 15A-1368.4, 15A-1368.6, 15A-1369, 15A-1374, 15A-1376, 15A-2000, 15B-21, 15B-31, 15B-32, 17C-3, 20-19, 20-81.12, 20-179, 65-4, 66-58, 97-13, 105-259, 108A-14, 114-10.1, 114-14, 115C-106.3, 115C-108.1, 115C-296.2, 115D-5, 120-12.1, 120-70.94, 122C-22, 122C-55, 122C-62, 122C-311, 122C-312, 122C-313, 122C-402, 122C-421, 126-5, 127A-54, 130A-25, 131E-98, 131E-184, 131E-214.1, 143-63.1, 143-134, 143-166.2, 143-166.13, 143-300.7, 143-599, 143B-2, 143B-6, 143B-179, 143B-260 through 143B-267, 143B-270, 143B-271, 143B-272, 143B-273.2, 143B-273.5, 143B-273.8, 143B-273.15, 143B-273.15A, 143B-394.15, 143B-417, 143B-476, 143B-478, 146-33, 147-12, 148-2 through 148-4.1, 148-6, 148-10 through 148-10.3, 148-12, 148-18 through 148-19.1, 148-22, 148-22.1, 148-23 through 148-24, 148-26, 148-26.5, 148-28, 148-29, 148-32.1 through 148-33.2, 148-36, 148-37, 148-37.2, 148-37.3, 148-40, 148-41, 148-45, 148-46.1, 148-53, 148-54, 148-57, 148-59, 148-64, 148-64.1, 148-65.7, 148-66, 148-67, 148-70, 148-74, 148-77, 148-78, 148-118.1, 148-118.2, 148-118.4, 148-118.5, 148-118.6, 148-118.8, 148-128, 148-134, 150B-1, 153A-221, 153A-230.1, 153A-230.2, 153A-230.3, 153A-230.5, 162-39, 163-82.20A, 164-40, 164-42, and 164-47. In any other instances in which the term "Department of Correction" appears in the General Statutes, the Revisor of Statutes shall replace "Department of Correction" with "Division of Adult Correction", and in any other instances in which the word "Department" is used to refer to the Department of Correction, the Revisor of Statutes shall delete the word "Department" and substitute the word "Division".

**SECTION 19.1.(i)** The following statutes are amended by deleting the language "Secretary of Correction" or "Secretary of the Department of Correction" wherever it appears and substituting "Secretary of Public Safety": G.S. 15-10.2, 15-10.3, 15-194, 15-203 through 15-207, 15-209, 15A-1340.36, 15A-1371, 17C-3, 20-79.5, 115C-112.1, 122C-312, 130A-25, 143B-261.2, 143B-262.1, 143B-262.4, 143B-263, 143B-265, 143B-266, 143B-267, 143B-270, 143B-271, 143B-273.2, 143B-394.15, 143B-478, 148-4, 148-4.1, 148-5, 148-10.1, 148-11, 148-13, 148-18.1, 148-19, 148-20, 148-22, 148-22.1, 148-24, 148-25, 148-26, 148-26.5, 148-28, 148-33, 148-33.1, 148-33.2, 148-36, 148-37, 148-37.2, 148-41, 148-45, 148-46, 148-46.2, 148-57, 148-65.6, 148-65.9, 148-74, 148-78, 148-118.6, 148-118.8, 148-118.9, 148-121, 148-122, 162-39, 164-37, and 164-40. In any other instances in which the term "Secretary of Correction" appears in the General Statutes, the Revisor of Statutes shall replace "Secretary of Correction" with "Secretary of Public Safety".

**SECTION 19.1.(j)** The following statutes are amended by deleting the language "Division of Prisons" wherever it appears and substituting "Section of Prisons of the Division of Adult Correction": G.S. 14-208.6, 14-208.40C, 14-258.2, 15A-1343, 17C-3, 66-58, 130A-25, 143B-262.1, 143B-262.2, 143B-264, 143B-478, 148-11, 148-18, 148-29, and 148-130. In any other instances in which the term "Division of Prisons" appears in the General Statutes, the Revisor of Statutes shall replace "Division of Prisons" with "Section of Prisons of the Division of Adult Correction". The following statutes are amended by deleting the language "Division of Correction Enterprises" wherever it appears and substituting "Section of Correction Enterprises of the Division of Adult Correction": G.S. 14-208.6, 14-208.40C, 14-258.2, 15A-1343, 17C-3, 66-58, 130A-25, 143B-262.1, 143B-262.2, 143B-264, 143B-478, 148-11, 148-18, 148-29, and 148-130. In any other instances in which the term "Division of Correction Enterprises" appears in the General Statutes, the Revisor of Statutes shall replace "Division of Correction Enterprises" with "Section of Correction Enterprises of the Division of Adult Correction".

**SECTION 19.1.(k)** The following statutes are amended by deleting the language "Division of Community Corrections" wherever it appears and substituting "Section of Community Corrections of the Division of Adult Correction": G.S. 7B-3000, 7B-3001, 7B-3100, 14-208.40C, 14-208.41, 15A-837, 15A-1340.11, 15A-1342, 15A-1343, 15A-1343.2, 15A-1368.4, 15A-1369.4, 15A-1371, 17C-3, 20-179.3, 105-259, 115D-5, 143B-262, 143B-262.4, 143B-273.4, 143B-478, and 148-65.6. In any other instances in which the term "Division of Community Corrections" appears in the General Statutes, the Revisor of Statutes shall replace "Division of Community Corrections" with "Section of Prisons of the Division of Adult Correction".

**SECTION 19.1.(l)** The following statutes are amended by deleting the language "Department of Juvenile Justice and Delinquency Prevention" wherever it appears and substituting "Division of Juvenile Justice of the Department of Public Safety": G.S. 7A-302, 7B-1501, 7B-3100, 7B-4002, 14-239, 14-258.4, 14-316.1, 66-58, 114-12.1, 114-19.6, 115C-106.3, 115C-107.6, 115C-108.1, 115C-296.2, 115D-1, 115D-5, 120-70.94, 120-216, 122C-113, 122C-117, 126-5, 143-166.2, 143-166.13, 143-661, 143B-2, 143B-6, 143B-152.14, 143B-153, 143B-417, 143B-478, 143B-511 through 143B-550, 148-26, 164-37, 164-40, and 164-43. In all other instances in which the term "Department of Juvenile Justice and Delinquency Prevention" appears in the General Statutes, the Revisor of Statutes shall replace "Department of Juvenile Justice and Delinquency Prevention" with "Division of Juvenile Justice" and in all other instances in which the word "Department" is used to refer to the Department of Juvenile Justice and Delinquency Prevention, the Revisor of Statutes shall delete the word "Department" and substitute the word "Division", or, make other appropriate changes to the General Statutes to reference the Division rather than the Department.

**SECTION 19.1.(m)** The following statutes are amended by deleting the language "Secretary of Juvenile Justice and Delinquency Prevention" wherever it appears and substituting "Secretary of Public Safety": G.S. 17C-3, 20-79.5, 115C-112.1, and 143B-515. In all other instances in which the term "Secretary of Juvenile Justice and Delinquency Prevention" appears in the General Statutes, the Revisor of Statutes shall replace "Secretary of Juvenile Justice and Delinquency Prevention" with "Secretary of Public Safety".

**SECTION 19.1.(n)** The following statutes are amended by deleting the language "Alcohol Law Enforcement Division" and "Division of Alcohol Law Enforcement" wherever it appears and substituting "Alcohol Law Enforcement Section" and by deleting the word "Division" when it refers to the Alcohol Law Enforcement Division and substituting "Section": G.S. 18B-903, 19-2.1, 105-259, 143-652.1, 143-652.2, 143-654, 143-655, and 143-656. In all other instances in which the terms "Alcohol Law Enforcement Division" or "Division of Alcohol Law Enforcement" appears in the General Statutes, the Revisor of Statutes shall replace those terms with "Alcohol Law Enforcement Section", and in all other instances in which the word "Division" is used to refer to the Alcohol Law Enforcement Division, the Revisor of Statutes shall delete the word "Division" and substitute the word "Section".

**SECTION 19.1.(p)** The following statutes are amended by deleting the language "State Highway Patrol Division" wherever it appears and substituting "State Highway Patrol Section"; by deleting the word "Division" wherever it appears when it refers to the State Highway Patrol Division and substituting "Section"; and by deleting the language "Division of the State Highway Patrol" wherever it appears and substituting "State Highway Patrol Section": G.S. 20-185, 20-195, and 20-196. In all other instances in which the term "State Highway Patrol Division" appears in the General Statutes, the Revisor of Statutes shall replace that term with "State Highway Patrol Section", and in all other instances in which the word "Division" is used to refer to the State Highway Patrol Division, the Revisor of Statutes shall delete the word "Division" and substitute the word "Section".

**SECTION 19.1.(q)** The following statutes are amended by deleting the language "ALE Division" wherever it appears and substituting "ALE Section": G.S. 18B-201, 18B-202, 18B-203, 18B-504, 18B-805, 18B-902, and 18B-904. In any other instances in which the term "ALE Division" appears in the General Statutes, the Revisor of Statutes shall replace "ALE Division" with "ALE Section".

**SECTION 19.1.(q1)** The following statutes are amended by deleting the word "Director" wherever it appears and substituting "Chief": G.S. 114-13, 114-14, 114-14.1, 114-15, 114-15.1, 114-15.3, 114-20, and 114-20.1.

**RECODIFICATION OF AFFECTED STATUTES**

**SECTION 19.1.(r)** Both of the following apply to any recodification pursuant to subsections (s) through (x) of this section:

(1) Statutory sections of the former statutes that were reserved for future codification shall have corresponding sections that are reserved for future codification in the recodified statutes.

(2) The recodifications are of the affected statutes as rewritten by subsections (g) through (q) of this section, as applicable.

**SECTION 19.1.(s)** Division of Adult Correction. – Article 6 of Chapter 143B of the General Statutes is recodified as Part 2 of Article 5A of Chapter 143B of the General

Statutes, "Division of Adult Correction," but the statutory numbering shall remain unchanged and the various Parts of former Article 6 shall be redesignated as Subparts of Part 2 of Article 5A of the General Statutes.

**SECTION 19.1.(t)** Division of Juvenile Justice. – Article 12 of Chapter 143B of the General Statutes, except for G.S. 143B-550, is recodified as Part 3 of Article 5A of Chapter 143B of the General Statutes, "Division of Juvenile Justice and Delinquency Prevention," G.S. 143B-272.1 through G.S. 143B-272.43. The various Parts of former Article 12 shall be redesignated as Subparts of Part 3 of Article 5A of the General Statutes.

**SECTION 19.1.(u)** Division of Law Enforcement. – Parts 1 and 7 of Article 11 of Chapter 143B of the General Statutes are repealed. Part 9 of Article 11 of Chapter 143B of the General Statutes is recodified as Subpart A of Part 4 of Article 5A of Chapter 143B of the General Statutes, G.S. 143B-272.45. Article 4 of Chapter 114 of the General Statutes, other than G.S. 114-16, is recodified as Subpart B of Part 4 of Article 5A of Chapter 143B of the General Statutes, G.S. 143B-272.46A through G.S. 143B-272.46L.

**SECTION 19.1.(w)** Division of Emergency Management. – Part 8 of Article 11 of Chapter 143B of the General Statutes is recodified as Subpart A of Part 5 of Article 5A of Chapter 143B of the General Statutes and renumbered as G.S. 143B-272.52. Part 5A of Article 11 of Chapter 143B of the General Statutes is recodified as Subpart B of Part 5 of Article 5A of Chapter 143B of the General Statutes, G.S. 143B-272.60 through G.S. 143B-272.72. Part 5 of Article 11 of Chapter 143B of the General Statutes is recodified as Subpart C of Part 5 of Article 5A of Chapter 143B of the General Statutes, G.S. 143B-272.73A through G.S. 143B-272.73C.

**SECTION 19.1.(x)** Division of Administration. – Part 3 of Article 11 of Chapter 143B of the General Statutes is recodified as Subpart A of Part 6 of Article 5A of Chapter 143B of the General Statutes, "Grants Management Section", G.S. 143B-272.75 through G.S. 143B-272.77. G.S. 143B-477 and G.S. 143B-550 are recodified under that Subpart as G.S. 143B-272.78 and G.S. 143B-272.79, respectively. Article 6A of Chapter 143B of the General Statutes is recodified as Subpart B of Part 6 of Article 5A of Chapter 143B of the General Statutes, G.S. 143B-272.80 through G.S. 143B-272.101.

**SECTION 19.1.(x1)** Office of External Affairs. – Part 3A of Article 11 of Chapter 143B of the General Statutes is recodified as Part 7 of Article 5A of Chapter 143B of the General Statutes, "Victims' Services Section", G.S. 143B-272.103 through G.S. 143B-272.104.

**SECTION 19.1.(x2)** North Carolina State Crime Laboratory. – G.S. 114-16 is recodified as Part 8 of Article 5A of Chapter 143B of the General Statutes, "North Carolina State Crime Laboratory", G.S. 143B-272.108, and as recodified is amended by deleting the word "Bureau" wherever it appears and substituting the name "North Carolina State Crime Laboratory" where first used in that section and "State Crime Laboratory" at each subsequent location in that section. G.S. 114-16.1 is recodified as G.S. 143B-272.109.

**OTHER SUBSTANTIVE CHANGES**

**SECTION 19.1.(y)** Part 9 of Article 11 of Chapter 143B of the General Statutes, as rewritten by subsection (g) of this section, and recodified by subsection (u) of this section, reads as rewritten:

"Subpart A. State Capitol Police ~~Division.~~Section.

"**§ 143B-272.45. State Capitol Police ~~Division~~ Section – powers and duties.**

(a) ~~Division~~Section Established. – There is hereby established, within the Law Enforcement Division of the Department of Public Safety, the State Capitol Police ~~Division,~~Section, which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

(b) Purpose. – The State Capitol Police ~~Division~~ Section shall serve as a special police agency of the Department of Public Safety. The ~~Director~~ Chief of the State Capitol Police, appointed by the Secretary pursuant to ~~G.S. 143B-476(6),~~ G.S. 143B-259.2, with the approval of the Governor, may appoint as special police officers such reliable persons as he may deem necessary.

(c) Appointment of Officers. – Special police officers appointed pursuant to this section may not exercise the power of arrest until they shall take an oath, to be administered by any person authorized to administer oaths, as required by law.

(d) Jurisdiction of Officers. – Each special police officer of the State Capitol Police shall have the same power of arrest as the police officers of the City of Raleigh. Such authority

may be exercised within the same territorial jurisdiction as exercised by the police officers of the City of Raleigh, and in addition thereto the authority of a deputy sheriff may be exercised on property owned, leased, or maintained by the State located in the County of Wake.

(e) Reserved for future codification purposes.

(f) Public Safety. – The ~~Director~~ Chief of the State Capitol Police, or the ~~Director's~~ Chief's designee, shall exercise at all times those means that, in the opinion of the ~~Director~~ Chief or the designee, may be effective in protecting all State buildings and grounds, except for the State legislative buildings and grounds as defined in G.S. 120-32.1(d), and the persons within those buildings and grounds from fire, bombs, bomb threats, or any other emergency or potentially hazardous conditions, including both the ordering and control of the evacuation of those buildings and grounds. The ~~Director,~~Chief, or the ~~Director's~~ Chief's designee, may employ the assistance of other available law enforcement agencies and emergency agencies to aid and assist in evacuations of those buildings and grounds."

**SECTION 19.1.(z)** G.S. 18B-500 reads as rewritten:

"**§ 18B-500. Alcohol law-enforcement agents.**

(a) Appointment. – The ~~Secretary of Crime Control and Public Safety~~ Secretary of the Department of Public Safety shall appoint alcohol law-enforcement agents and other enforcement personnel. The ~~Secretary of Crime Control and Public Safety~~ Secretary of the Department of Public Safety may also appoint regular employees of the Commission as alcohol law-enforcement agents. Alcohol law-enforcement agents shall be designated as "alcohol law-enforcement agents". Persons serving as reserve alcohol law-enforcement agents are considered employees of the ~~Division of Alcohol Law Enforcement~~ Alcohol Law Enforcement Section for workers' compensation purposes while performing duties assigned or approved by the ~~Director of~~ Chief of the Alcohol Law Enforcement Section or the ~~Director's~~ Chief's designee.

(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an alcohol law-enforcement agent shall have authority to arrest and take other investigatory and enforcement actions for any criminal offense. The primary responsibility of an agent shall be enforcement of the ABC laws, lottery laws, and Article 5 of Chapter 90 (The Controlled Substances Act); however, an agent may perform any law-enforcement duty assigned by the ~~Secretary of Crime Control and Public Safety~~Secretary of the Department of Public Safety or the Governor.

(c) Territorial Jurisdiction. – An alcohol law-enforcement agent is a State officer with jurisdiction throughout the State.

(d) Service of Commission Orders. – Alcohol law-enforcement agents may serve and execute notices, orders, or demands issued by the Alcoholic Beverage Control Commission or the North Carolina State Lottery Commission for the surrender of permits or relating to any administrative proceeding. While serving and executing such notices, orders, or demands, alcohol law-enforcement agents shall have all the power and authority possessed by law-enforcement officers when executing an arrest warrant.

(e) Discharge. – Alcohol law-enforcement agents are subject to the discharge provisions of G.S. 18B-202.

(f) Repealed by Session Laws 1995, c. 507, s. 6.2(a)."

**SECTION 19.1.(z1)** G.S. 114-12, as recodified by subsection (u) of this section, reads as rewritten:

"**§ 143B-272.46A. Bureau of Investigation created; powers and duties.**

In order to secure a more effective administration of the criminal laws of the State, to prevent crime, and to procure the speedy apprehension of criminals, the ~~Attorney General~~Secretary of Public Safety shall set up in the ~~Department of Justice~~ Division of Law Enforcement of the Department of Public Safety a ~~division~~ section to be designated as the State Bureau of Investigation. The ~~Division~~ Section shall have charge of and administer the agencies and activities herein set up for the identification of criminals, for their apprehension, ~~for the scientific analysis of evidence of crime,~~ and investigation and preparation of evidence to be used in criminal courts; and the said Bureau shall have charge of investigation of criminal matters herein especially mentioned, and of such other crimes and criminal procedure as the Governor may direct."

**SECTION 19.1.(aa)** Part 8 of Article 11 of Chapter 143B of the General Statutes, as rewritten by subsection (g) of this section and recodified by subsection (w) of this section, reads as rewritten:

"Subpart A. Emergency Management Division.

**"§ 143B-272.52. Division of Emergency Management of the Department of Public Safety.**

(a) There is established, within the Department of Crime Control and Public Safety, the Division of Emergency Management, which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

(b) The Division of Emergency Management shall have the following powers and duties:

~~(1) To exercise the powers and duties exercised prior to the enactment of this section, in accordance with G.S. 143B-475(a)(11).~~

(2) To exercise the powers and duties conferred on it by Chapter 166A of the General Statutes.

(3) To exercise any other powers vested by law."

**SECTION 19.1.(bb)** Part 7 of Article 11 of Chapter 143B of the General Statutes is repealed, and the Law Enforcement Support Services Division of the Department of Crime Control and Public Safety is abolished.

**SECTION 19.1.(cc)** The evidence warehouse that was operated by the Law Enforcement Support Services Division of the Department of Crime Control and Public Safety prior to the effective date of this section, and all State-owned personal property located in or associated with the warehouse, is hereby reallocated to the North Carolina State Crime Laboratory of the Department of Public Safety. The Department of Public Safety shall assume any lease to which the warehouse is subject at the time this section becomes effective.

**SECTION 19.1.(cc1)** G.S. 114-16, as amended by Section 10 of S.L. 2011-19 and recodified by subsection (x2) of this section, reads as rewritten:

**"§ 143B-272.108. North Carolina State Crime Laboratory and clinical facilities; employment of criminologists; services of scientists, etc., employed by State; radio system.**

(a) Generally. – In the said North Carolina State Crime Laboratory there shall be provided laboratory facilities for the analysis of evidences of crime, including the determination of presence, quantity and character of poisons, the character of bloodstains, microscopic and other examination material associated with the commission of crime, examination and analysis of projectiles of ballistic imprints and records which might lead to the determination or identification of criminals, the examination and identification of fingerprints, and other evidence leading to the identification, apprehension, or conviction of criminals. A sufficient number of persons skilled in such matters shall be employed to render a reasonable service to the public and the criminal justice system in the discharge of their duties. In the personnel of the State Crime Laboratory shall be included a sufficient number of persons of training and skill in the investigation of crime and in the preparation of evidence as to be of service to local enforcement officers, under the direction of the Governor, in criminal matters of major importance.

The laboratory and clinical facilities of the institutions of the State, both educational and departmental, shall be made available to the State Crime Laboratory, and scientists and doctors now working for the State through its institutions and departments may be called upon by the Governor to aid the State Crime Laboratory in the evaluation, preparation, and preservation of evidence in which scientific methods are employed, and a reasonable fee may be allowed by the Governor for such service.

The State radio system shall be made available to the Bureau for use in its work.

(b) Additional Powers and Duties of the Crime Laboratory. – The Crime Laboratory shall have the following additional powers and duties:

(1) To provide central storage and management of evidence according to the provisions of Article 13 of Chapter 15A of the General Statutes and create and maintain a data bank of statewide storage locations of postconviction evidence or other similar programs.

(2) To provide central storage and management of rape kits according to the federal Violence Against Women and Department of Justice Reauthorization Act of 2005 with specific protections against release of names of victims providing anonymous or 'Jane Doe' rape kits without victim consent.

(3) To provide for the storage and management of evidence."

**SECTION 19.1.(cc2)** Chapter 17D of the General Statutes are amended by deleting the language "Department of Justice" wherever it appears and substituting "Department of Public Safety".

**CONFORMING CHANGES**

**SECTION 19.1.(dd)** G.S. 7A-343.1, as rewritten by subsection (g) of this section, reads as rewritten:

"**§ 7A-343.1. Distribution of copies of the appellate division reports.**

...

~~Juvenile Justice and Delinquency Prevention, Department of~~Juvenile Justice, Division of 1

...."

**SECTION 19.1.(dd1)** G.S. 14-16.9 reads as rewritten:

"**§ 14-16.9. Officers-elect to be covered.**

Any person who has been elected to any office covered by this Article but has not yet taken the oath of office shall be considered to hold the office for the purpose of this Article and ~~G.S. 114-15.~~G.S. 143B-272.46F."

**SECTION 19.1.(ee)** G.S. 15A-1342(j) reads as rewritten:

"(j) Immunity for Injury to Defendant Performing Community Service. – Immunity from liability for injury to a defendant performing community service shall be as set forth in ~~G.S. 143B-475.1(d).~~G.S. 143B-262.4(d)."

**SECTION 19.1.(gg)** G.S. 18B-101(5), as rewritten by subsection (g) of this section, reads as rewritten:

"(5) ~~'ALE Division'~~ 'ALE Section' means the Alcohol Law Enforcement ~~Division~~ Section of the Department of Public Safety."

**SECTION 19.1.(hh)** G.S. 20-184, as rewritten by subsection (g) of this section, reads as rewritten:

"**§ 20-184. Patrol under supervision of Department of Public Safety.**

The Secretary of Public Safety, under the direction of the Governor, shall have supervision, direction and control of the State Highway Patrol. The Secretary shall establish in the Department of Public Safety a State Highway Patrol ~~Division,~~Section, prescribe regulations governing ~~said Division,~~the Section, and assign to the ~~Division~~ Section such duties as ~~he~~the Secretary may deem proper."

**SECTION 19.1.(hh1)** G.S. 113-172(a) reads as rewritten:

"(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission. The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence or misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by ~~G.S. 114-15.1.~~G.S. 143B-272.46G."

**SECTION 19.1.(hh2)** G.S. 114-12.1, as recodified by subsection (u) of this section and rewritten by subsection (l) of this section, reads as rewritten:

"**§ 143B-272.46B. Minority sensitivity training for law enforcement personnel.**

(a) The Department of ~~Justice~~ Public Safety shall develop guidelines for minority sensitivity training for all law enforcement personnel throughout the State. The Department shall ensure that all persons who work with minority juveniles in the juvenile justice system are taught how to communicate effectively with minority juveniles and how to recognize and address the needs of those juveniles. The Department shall also advise all law enforcement and professionals who work within the juvenile justice system of ways to improve the treatment of

minority juveniles so that all juveniles receive equal treatment. Except where local law enforcement has existing minority sensitivity training that meets the Department guidelines, the Department shall conduct the minority sensitivity training annually. Prior to the training each year, the Department shall assess whether minorities are receiving fair and equal treatment in the juvenile justice system with regard to the administration of predisposition procedures, of diversion methods, of dispositional alternatives, and of treatment and post-release supervision plans.

(b) The Division of Juvenile Justice of the Department of Public Safety shall ensure that all juvenile court counselors and other Division personnel receive the minority sensitivity training specified in subsection (a) of this section."

**SECTION 19.1.(hh3)** G.S. 114-13, as recodified by subsection (u) of this section and rewritten by subsection (q1) of this section, reads as rewritten:

**"§ 143B-272.46C. Chief of the Bureau; personnel.**

The ~~Attorney General~~Secretary of Public Safety shall appoint a Chief of the Bureau of Investigation, who shall serve at the will of the ~~Attorney General,~~Secretary, and whose salary shall be fixed by the Department of Administration under G.S. 143-36 et seq. He may further appoint a sufficient number of assistants and stenographic and clerical help, who shall be competent and qualified to do the work of the Bureau. The salaries of such assistants shall be fixed by the Department of Administration under G.S. 143-36 et seq. The salaries of clerical and stenographic help shall be the same as now provided for similar employees in other State departments and bureaus."

**SECTION 19.1.(hh4)** G.S. 114-15.2, as recodified by subsection (u) of this section, reads as rewritten:

**"§ 143B-272.46H. Use of private investigators limited.**

No State executive officer, department, agency, institution, commission, bureau, or other organized activity of the State that receives support in whole or in part from the State except for counties, cities, towns, other municipal corporations or political subdivisions of the State or any agencies of these subdivisions, or county or city boards of education may employ a private investigator without the consent of the ~~Attorney General.~~Secretary of Public Safety. If the ~~Attorney General~~Secretary of Public Safety determines that it is impracticable for the Bureau to conduct the investigation, the ~~Attorney General~~ Secretary shall employ a private investigator and shall fix the compensation for his services. The cost of the private investigator shall be paid from funds credited to the entity requesting the investigation or from the Contingency and Emergency Fund."

**SECTION 19.1.(hh5)** G.S. 114-19.1(d) reads as rewritten:

"(d) Nothing in this section shall be construed as enlarging any right to receive any record of the State Bureau of Investigation. Such rights are and shall be controlled by ~~G.S. 114-15, G.S. 114-19,~~ G.S. 143B-272.46F, G.S. 143B-272.46L, G.S. 120-19.4A, and other applicable statutes."

**SECTION 19.1.(ii)** G.S. 120-70.94(2a), as rewritten by subsection (g) of this section, reads as rewritten:

"(2a) Examine the effectiveness of the Department of Public Safety in implementing the duties and responsibilities charged to the Department in ~~G.S. 143B-474~~ G.S. 143B-259.1(1) through (9) and the overall effectiveness and efficiency of law enforcement in the State;".

**SECTION 19.1.(ll)** G.S. 131D-10.4(3) reads as rewritten:

**"§ 131D-10.4. Exemptions.**

This Article shall not apply to:

...

(3) Secure detention facilities as specified in ~~Article 12~~Part 3 of Article 5A of Chapter 143B of the General Statutes;".

**SECTION 19.1.(mm)** G.S. 143-138(g) reads as rewritten:

"(g) Publication and Distribution of Code. – The Building Code Council shall cause to be printed, after adoption by the Council, the North Carolina State Building Code and each amendment thereto. It shall, at the State's expense, distribute copies of the Code and each amendment to State and local governmental officials, departments, agencies, and educational institutions, as is set out in the table below. (Those marked by an asterisk will receive copies only on written request to the Council.)

OFFICIAL OR AGENCY NUMBER OF COPIES
State Departments and Officials
...
~~Office of Juvenile Justice~~Division of Juvenile Justice of the Department of Public Safety ..... 1
...."

**SECTION 19.1.(oo)** G.S. 143B-273.4(b), as recodified by subsection (x) of this section, reads as rewritten:

"(b) The priority populations for programs funded under this ~~Article~~ Subpart shall be offenders sentenced to intermediate punishments."

**SECTION 19.1.(pp)** G.S. 143B-273.7, as recodified as G.S. 143B-272.87 by subsection (x) of this section, reads as rewritten:

"**§ 143B-272.87. Duties of State Criminal Justice Partnership Advisory Board.**

The State Criminal Justice Partnership Advisory Board has the following duties:

...

(5) To coordinate community-based corrections programs administered by the state agencies and programs funded under this ~~Article;~~Subpart;

...

(8) To evaluate the effects of categories of programs funded by this ~~Article~~ Subpart and prepare a written report."

**SECTION 19.1.(qq)** G.S. 143B-273.9, as recodified by subsection (x) of this section, reads as rewritten:

"**§ 143B-272.89. Election to apply for funding.**

A county may elect to apply for funding under this ~~Article~~ Subpart by a vote of the board of county commissioners approving the decision to apply, and by appointing a county criminal justice partnership advisory board. Two or more counties, by vote of the board of county commissioners of each county, may agree to create a multicounty board instead of a county board. A multicounty board shall perform the same functions as a county board for each county that participates in establishing the multicounty board. The board or boards of county commissioners shall notify the Secretary of the intent to apply for funds within 60 days of receiving notification of the availability of funds and may request technical assistance to develop the community-based corrections plan."

**SECTION 19.1.(rr)** G.S. 143B-273.12(c), as recodified by subsection (x) of this section, reads as rewritten:

"(c) The proposed program shall target eligible offenders as defined in ~~G.S. 143B-273.4.~~G.S. 143B-272.84."

**SECTION 19.1.(ss)** G.S. 143B-273.14, as recodified as G.S. 143B-273.94 by subsection (x) of this section, reads as rewritten:

"**§ 143B-273.94. Fundable programs; community-based corrections programs.**

(a) Fundable programs under this ~~Article~~ Subpart shall include community-based corrections programs which are operated under a county community-based corrections plan and funded by the State subsidy provided in this ~~Article.~~Subpart. Based on the prioritized populations in ~~G.S. 143B-273.4,~~ G.S. 143B-272.84, the programs may include, but are not limited to, the following:

...

(a1) Funding provided under this ~~Article~~ Subpart for personnel for satellite substance abuse centers shall only be used for personnel who provide direct services to offenders.

(b) Community-based corrections funds may be used to operate programs and may also be used to construct, acquire, or renovate community facilities established to provide the programs and services set forth in subsection (a) of this section. Construction and renovation funds may not be used for jails. Construction and renovation funds may not be used to reimburse expenses for any facilities renovated before the effective date of this ~~Article.~~Subpart.

(c) When a county receives more than fifty thousand dollars ($50,000) in community-based corrections funds, then that county shall use at least fifty percent (50%) of those funds to develop programs for offenders who receive intermediate punishments."

**SECTION 19.1.(tt)** G.S. 143B-273.16(a), as recodified by subsection (x) of this section, reads as rewritten:

"(a) To continue to receive funding under this ~~Article,~~Subpart, a county shall submit an updated application for implementation funding to the Secretary at the beginning of each fiscal year."

**SECTION 19.1.(uu)** G.S. 143B-273.17, as recodified by subsection (x) of this section, reads as rewritten:

"**§ 143B-272.98. Termination of participation in program.**

A county receiving financial aid under this ~~Article~~ Subpart may terminate its participation by delivering a resolution of the board or boards of county commissioners to the Secretary at the beginning of any calendar quarter. Upon withdrawal from the program, the board or boards of county commissioners may adopt a resolution stating that it is in the best interests of the county that the county community corrections advisory board be dissolved, whereupon the county commissioners shall pay and discharge any debts or liabilities of the advisory board, collect and distribute assets of the advisory board under the laws of North Carolina, and pay over any remaining proceeds or property to the proper fund."

**SECTION 19.1.(vv)** G.S. 143B-273.19, as recodified by subsection (x) of this section, reads as rewritten:

"**§ 143B-272.100. Prohibited uses of funds.**

(a) Counties may not use funds received under this ~~Article~~ Subpart to supplant or replace existing funds or other resources from the federal, State, or county government for existing community-based corrections programs.

(b) Counties may not use funds received under this ~~Article~~ Subpart for indirect costs associated with a program."

**SECTION 19.1.(ww)** G.S. 143B-477, as recodified by subsection (x) of this section, reads as rewritten:

"**§ 143B-272.78. ~~Crime Control Division of the Department of Public Safety.~~Additional duties of the Grants Management Section.**

~~(a) There is hereby established, within the Department of Public Safety, the Crime Control Division, which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.~~

(b) The ~~Crime Control Division shall provide clerical and professional services required by the Governor's Crime Commission and~~ Grants Management Section shall administer the State Law Enforcement Assistance Program and such additional related programs as may be established by or assigned to the ~~Commission~~Section. It shall serve as the single State planning agency for purposes of the Crime Control Act of 1976 (Public Laws 94-503). Administrative responsibilities shall include, but are not limited to, the following:

(1) Compiling data, establishing needs and setting priorities for funding and policy recommendations for the Governor's Crime Commission;

(2) Preparing and revising statewide plans for adoption by the Governor's Crime Commission which are designed to improve the administration of criminal justice and to reduce crime in North Carolina;

(3) Advising State and local interests of opportunities for securing federal assistance for crime reduction and for improving criminal justice administration and planning within the State of North Carolina;

(4) Stimulating and seeking financial support from federal, State, and local government and private sources for programs and projects which implement adopted criminal justice administration improvement and crime reduction plans;

(5) Assisting State agencies and units of general local government and combinations thereof in the preparation and processing of applications for financial aid to support improved criminal justice administration, planning and crime reduction;

(6) Encouraging and assisting coordination at the federal, State, and local government levels in the preparation and implementation of criminal justice administration improvements and crime reduction plans;

(7) Applying for, receiving, disbursing, and auditing the use of funds received for the program from any public and private agencies and instrumentalities for criminal justice administration, planning, and crime reduction purposes;

(8) Entering into, monitoring, and evaluating the results of contracts and agreements necessary or incidental to the discharge of its assigned responsibilities;

(9) Providing technical assistance to State and local law-enforcement agencies in developing programs for improvement of the law-enforcement and criminal justice system; and

(10) Taking such other actions as may be deemed necessary or appropriate to carry out its assigned duties and responsibilities.

~~(c) The Crime Control Division shall also provide professional and clerical staff services to the adjunct committees of the Governor's Crime Commission established in G.S. 143B-480.~~"

**SECTION 19.1.(xx)** G.S. 143B-479(a)(10), as recodified by subsection (x) of this section, reads as rewritten:

"(10) To serve as a coordinating committee and forum for discussion of recommendations from its adjunct committees formed pursuant to ~~G.S. 143B-480;~~ G.S. 143B-272.77; and".

**SECTION 19.1.(yy)** G.S. 143B-499.1, as recodified by subsection (w) of this section, reads as rewritten:

"**§ 143B-272.65. Dissemination of missing persons data by law-enforcement agencies.**

A law-enforcement agency, upon receipt of a missing person report by a parent, spouse, guardian, legal custodian, or person responsible for the supervision of the missing individual shall immediately make arrangements for the entry of data about the missing person or missing child into the national missing persons file in accordance with criteria set forth by the FBI/NCIC, immediately inform all of its on-duty law-enforcement officers of the missing person report, initiate a statewide broadcast to all appropriate law-enforcement agencies to be on the lookout for the individual, and transmit a copy of the report to the Center. No law enforcement agency shall establish or maintain any policy which requires the observance of any waiting period before accepting a missing person report.

If the report involves a missing child and the report meets the criteria established in ~~G.S. 143B-499.7(b),~~ G.S. 143B-272.71(b), as soon as practicable after receipt of the report, the law enforcement agency shall notify the Center and the National Center for Missing and Exploited Children of the relevant data about the missing child."

**SECTION 19.1.(zz)** G.S. 143B-499.2(6a), as recodified by subsection (w) of this section, reads as rewritten:

"(6a) Develop and maintain the AMBER Alert System as created by ~~G.S. 143B-499.7;~~G.S. 143B-272.71."

**SECTION 19.1.(aaa)** G.S. 143B-499.4(5), as rewritten by subsection (g) of this section and recodified by subsection (w) of this section, reads as rewritten:

"(5) Any other person authorized by the Secretary of the Department of Public Safety pursuant to ~~G.S. 143B-498(1).~~G.S. 143B-272.63."

**SECTION 19.1.(bbb)** G.S. 143B-499.5, as recodified by subsection (w) of this section, reads as rewritten:

"**§ 143B-272.69. Provision of toll-free service; instructions to callers; communication with law-enforcement agencies.**

The Center shall provide a toll-free telephone line for anyone to report the disappearance of any individual or the sighting of any missing child or missing person. The Center personnel shall instruct the caller, in the case of a report concerning the disappearance of an individual, of the requirements contained in ~~G.S. 143B-499~~ G.S. 143B-272.64 of first having to submit a missing person report on the individual to the law-enforcement agency having jurisdiction of the area in which the individual became or is believed to have become missing. Any law-enforcement agency may retrieve information imparted to the Center by means of this phone line. The Center shall directly communicate any report of a sighting of a missing person or a missing child to the law-enforcement agency having jurisdiction in the area of disappearance or sighting."

**SECTION 19.1.(ccc)** G.S. 143B-515(3), as recodified by subsection (t) of this section, reads as rewritten:

"(3) County Councils. – Juvenile Crime Prevention Councils created under ~~G.S. 143B-544.~~G.S. 143B-272.33."

**SECTION 19.1.(ddd)** G.S. 143B-535, as recodified by subsection (t) of this section, reads as rewritten:

"**§ 143B-272.24. Duties and powers of chief court counselors.**

The chief court counselor in each district appointed under ~~G.S. 143B-516(b)(15)~~ G.S. 143B-272.6(b)(15) may:

(1) Appoint juvenile court counselors, secretaries, and other personnel authorized by the Department in accordance with the personnel policies adopted by the Department.

(2) Supervise and direct the program of juvenile intake, protective supervision, probation, and post-release supervision within the district.

(3) Provide in-service training for staff as required by the Department.

(4) Keep any records and make any reports requested by the Secretary in order to provide statewide data and information about juvenile needs and services.

(5) Delegate to a juvenile court counselor or supervisor the authority to carry out specified responsibilities of the chief court counselor to facilitate the effective operation of the district.

(6) Designate a juvenile court counselor in the district as acting chief court counselor, to act during the absence or disability of the chief court counselor."

**SECTION 19.1.(eee)** G.S. 143B-543, as recodified by subsection (x) of this section, reads as rewritten:

"**§ 143B-272.105. Legislative intent.**

It is the intent of the General Assembly to prevent juveniles who are at risk from becoming delinquent. The primary intent of this ~~Part~~ Subpart is to develop community-based alternatives to youth development centers and to provide community-based delinquency, substance abuse, and gang prevention strategies and programs. Additionally, it is the intent of the General Assembly to provide noninstitutional dispositional alternatives that will protect the community and the juveniles.

These programs and services shall be planned and organized at the community level and developed in partnership with the State. These planning efforts shall include appropriate representation from local government, local public and private agencies serving juveniles and their families, local business leaders, citizens with an interest in youth problems, youth representatives, and others as may be appropriate in a particular community. The planning bodies at the local level shall be the Juvenile Crime Prevention Councils."

**SECTION 19.1.(fff)** G.S. 143B-545, as recodified by subsection (t) of this section, reads as rewritten:

"**§ 143B-272.34. Terms of appointment.**

Each member of a County Council shall serve for a term of two years, except for initial terms as provided in this section. Each member's term is a continuation of that member's term under G.S. 147-33.62. Members may be reappointed. The initial terms of appointment began January 1, 1999. In order to provide for staggered terms, persons appointed for the positions designated in subdivisions (9), (10), (12), (15), (17), and (18) of ~~G.S. 143B-544(a)~~G.S. 143B-272.33(a) were appointed for an initial term ending on June 30, 2000. The initial term of the second member added to each County Council pursuant to ~~G.S. 143B-544(a)(12)~~ G.S. 143B-272.33(a)(12) shall begin on July 1, 2001, and end on June 30, 2002. After the initial terms, persons appointed for the positions designated in subdivisions (9), (10), (12), (15), (17), and (18) of ~~G.S. 143B-544(a)~~ G.S. 143B-272.33(a) shall be appointed for two-year terms, beginning on July 1. All other persons appointed to the Council were appointed for an initial term ending on June 30, 2001, and, after those initial terms, persons shall be appointed for two-year terms beginning on July 1."

**SECTION 19.1.(ggg)** G.S. 143B-550, as recodified by subsection (x) of this section and as rewritten by subsection (l) of this section, reads as rewritten:

"**§ 143B-272.79. Funding for programs.**

(a) Annually, the ~~Department~~ Division of Administration shall develop and implement a funding mechanism for programs that meet the standards developed under ~~this Part.~~Subpart F of Part 3 of Article 5A of Chapter 143B of the General Statutes. The ~~Department~~ Division shall ensure that the guidelines for the State and local partnership's funding process include the following requirements:

(1) Fund effective programs. – The ~~Department~~ Division shall fund programs that it determines to be effective in preventing delinquency and recidivism. Programs that have proven to be ineffective shall not be funded.

(2) Use a formula for the distribution of funds. – A funding formula shall be developed that ensures that even the smallest counties will be able to provide the basic prevention and alternative services to juveniles in their communities.

(3) Allow and encourage local flexibility. – A vital component of the State and local partnership established by this section is local flexibility to determine how best to allocate prevention and alternative funds.

(4) Combine resources. – Counties shall be allowed and encouraged to combine resources and services.

(b) The ~~Department~~ Division shall adopt rules to implement this section. The ~~Department~~ Division shall provide technical assistance to County Councils and shall require them to evaluate all State-funded programs and services on an ongoing and regular basis.

(c) The Division of Juvenile Justice of the Department of Public Safety shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety no later than March 1, 2006, and annually thereafter, on the results of the alternatives to commitment demonstration programs funded by Section 16.7 of S.L. 2004-124. The 2007 report and all annual reports thereafter shall also include projects funded by Section 16.11 of S.L. 2005-276 for the 2005-2006 fiscal year. Specifically, the report shall provide a detailed description of each of the demonstration programs, including the numbers of juveniles served, their adjudication status at the time of service, the services/treatments provided, the length of service, the total cost per juvenile, and the six- and 12-month recidivism rates for the juveniles after the termination of program services."

**SECTION 19.1.(hhh)** G.S. 166A-14(a1)(1)a., as rewritten by subsection (g) of this section, reads as rewritten:

"a. Emergency management services are provided at any place in this State during a state of disaster or state of emergency declared by the Governor pursuant to this Article or G.S. 14-288.15, and the services are provided under the direction and control of the Secretary of the Department of Public Safety pursuant to G.S. 166A-5, 166A-6, and ~~143B-476,~~ 143B-259.2, or the Governor."

**LIMITED AUTHORITY TO RECLASSIFY AND ELIMINATE CERTAIN POSITIONS**

**SECTION 19.1.(hhh1)** Notwithstanding any other provision of law, subject to the approval of the Director of the Budget, the Office of State Budget and Management or the Secretary of the Department of Public Safety may reclassify or eliminate existing administrative positions that are not specifically addressed in this act as needed for the efficient operation of the Department.

**CREATION OF REGIONAL OFFICES**

**SECTION 19.1.(hhh2)** The Department of Public Safety shall, in addition to the headquarters offices, create eight regional offices in the Division of Law Enforcement at each of which shall be collocated personnel and property of the State Bureau of Investigation, the Alcohol Law Enforcement Section, and the State Highway Patrol. Specifically, each regional office shall house one district of personnel and equipment for the Alcohol Law Enforcement Section, one district of personnel and equipment for the State Bureau of Investigation Section, and headquarters personnel and equipment for each State Highway Patrol Section troop headquarters. These regional offices shall be operational by July 1, 2012, and on or before March 1, 2012, the Department shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the following:

(1) The amount of savings the Department anticipates achieving as a result of collocating personnel and property of the State Bureau of Investigation, the Alcohol Law Enforcement Section, and the State Highway Patrol at the eight regional offices.

(2) The counties that will be included in each district and the regional office that will serve each district.

(3) The staffing levels anticipated at each regional office.

(4) Any statutory or regulatory changes that will be required as a prerequisite to or consequence of housing personnel and property of the State Bureau of Investigation, the Alcohol Law Enforcement Section, and the State Highway Patrol within the same regional offices.

**CHANGES TO CONFORM WITH S.L. 2011-19**

**SECTION 19.1.(hhh3)** G.S. 114-16.1(a), as recodified by subsection (x2) of this section, reads as rewritten:

"(a) Creation and Membership. – The North Carolina Forensic Science Advisory Board (Board) is hereby established as an advisory board within the Department of ~~Justice.~~Public Safety. The Board shall consist of 16 members, consisting of the State Crime Laboratory Director, and 15 members appointed by the ~~Attorney General~~Secretary of Public Safety as follows:

(1) A forensic scientist or any other person with an advanced degree who has received substantial education, training, or experience in the subject of laboratory standards or quality assurance regulation and monitoring.
(2) The Chief Medical Examiner of the State.
(3) A forensic scientist with an advanced degree who has received substantial education, training, or experience in the discipline of molecular biology.
(4) A forensic scientist with an advanced degree who has experience in the discipline of population genetics.
(5) A scientist with an advanced degree who has experience in the discipline of forensic chemistry.
(6) A scientist with an advanced degree who has experience in the discipline of forensic biology.
(7) A forensic scientist or any other person with an advanced degree who has received substantial education, training, or experience in the discipline of trace evidence.
(8) A scientist with a doctoral degree who has experience in the discipline of forensic toxicology and is certified by the American Board of Forensic Toxicologists.
(9) A member of the International Association for Identification.
(10) A member of the Association of Firearms and Toolmark Examiners.
(11) A member of the International Association for Chemical Testing.
(12) A director of a private or federal forensic laboratory located in the State.
(13) A member of the American Society of Crime Laboratory Directors.
(14) A member of the Academy of Forensic Sciences.
(15) A member of the American Statistical Association.

A chairman shall be elected from among the members appointed, and staff shall be provided by the Department of ~~Justice.~~Public Safety."

**SECTION 19.1.(hhh4)** Section 3 of S.L. 2011-19 reads as rewritten:

"**SECTION 3.** The ~~State Bureau of Investigation (SBI)~~Department of Public Safety shall encourage and seek collaborative opportunities and grant funds for research programs, in association, whenever possible, with the university system or independent nationally recognized forensic institutions, on human observer bias and sources of human error in forensic examinations. Such programs might include studies to determine the effects of contextual bias in forensic practice (e.g., studies to determine whether and to what extent the results of forensic analysis are influenced by knowledge regarding the background of the suspect and the investigator's theory of the case). In addition, research on sources of human error should be closely linked with research conducted to quantify and characterize the amount of error. Based on the results of these studies, and in consultation with the North Carolina Forensic Sciences Advisory Board, the North Carolina State Crime Laboratory should develop standard operating procedures (that will lay the foundation for model protocols) to minimize, to the extent possible, potential bias and sources of human error in forensic science. These standard operating procedures should apply to all forensic analyses that may be used in litigation."

**SECTION 19.1.(hhh5)** Section 6(a) of S.L. 2011-19 reads as rewritten:

"**SECTION 6.(a)** The position of ombudsman is created in the North Carolina State Crime Laboratory within the North Carolina Department of ~~Justice.~~Public Safety. The primary purpose of this position shall be to work with defense counsel, prosecutorial agencies, criminal

justice system stakeholders, law enforcement officials, and the general public to ensure all processes, procedures, practices, and protocols at the Laboratory are consistent with State and federal law, best forensic law practices, and in the best interests of justice in this State. The ombudsman shall mediate complaints brought to the attention of the ombudsman between the ~~SBI~~ North Carolina State Crime Laboratory and defense counsel, prosecutorial agencies, law enforcement agencies, and the general public. The ombudsman shall ensure all criminal justice stakeholders and the general public are aware of the availability, responsibilities, and role of the ombudsman and shall regularly attend meetings of the Conferences of the District Attorneys, District and Superior Court Judges, Public Defenders, the Advocates for Justice, and Bar Criminal Law Sections. The ombudsman shall make recommendations on a regular basis to the Director of the State Crime Laboratory, ~~Director~~ Chief of the SBI, and ~~Attorney General of North Carolina~~the Secretary of Public Safety as to policies, procedures, practices, and training of employees needed at the Laboratory to ensure compliance with State and federal law, best forensic law practices, and to resolve any meritorious systemic complaints received by the ombudsman."

**SECTION 19.1.(hhh6)** Section 6(b) of S.L. 2011-19 reads as rewritten:

"**SECTION 6.(b)** The funds for the position of ombudsman created in Section 6(a) of this act shall be provided by the Department of ~~Justice~~ Public Safety from other funds appropriated to the Department, and from other grants or funding that are available from other sources."

**SECTION 19.1.(hhh7)** G.S. 8-58.20(c) reads as rewritten:

"(c) The analyst who analyzes the forensic sample and signs the report shall complete an affidavit on a form developed by the ~~State Bureau of Investigation.~~North Carolina State Crime Laboratory. In the affidavit, the analyst shall state (i) that the person is qualified by education, training, and experience to perform the analysis, (ii) the name and location of the laboratory where the analysis was performed, and (iii) that performing the analysis is part of that person's regular duties. The analyst shall also aver in the affidavit that the tests were performed pursuant to the accrediting body's standards for that discipline and that the evidence was handled in accordance with established and accepted procedures while in the custody of the laboratory. The affidavit shall be sufficient to constitute prima facie evidence regarding the person's qualifications. The analyst shall attach the affidavit to the laboratory report and shall provide the affidavit to the investigating officer and the district attorney in the prosecutorial district in which the criminal charges are pending. An affidavit by a forensic analyst sworn to and properly executed before an official authorized to administer oaths is admissible in evidence without further authentication in any criminal proceeding with respect to the forensic analysis administered and the procedures followed."

**REPORTING AND EFFECTIVE DATE**

**SECTION 19.1.(iii)** The Office of State Budget and Management, in consultation with the Department of Juvenile Justice and Delinquency Prevention, the Department of Crime Control and Public Safety, the Department of Correction, and the Department of Justice, shall make the following reports on progress implementing this section to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee:

(1) An interim report on or before October 1, 2011.

(2) A final report on or before January 15, 2012. This report shall include information about any reclassifications of positions or reductions in force pursuant to subsection (hhh1) of this section and may include any recommendations for changes to the statutes that organize the Department of Public Safety.

**SECTION 19.1.(jjj)** Other than subsection (iii), this section becomes effective January 1, 2012. On and after that date, any references or directives in this act to the Department of Correction, the Department of Juvenile Justice and Delinquency Prevention, or the Department of Crime Control and Public Safety shall be construed to apply to the appropriate division of the Department of Public Safety pursuant to the departmental consolidation enacted by this section.

**CONSOLIDATE BUDGET CODES FOR DEPARTMENT OF PUBLIC SAFETY**

**SECTION 19.2.** The Office of State Budget and Management and the State Controller, in consultation with the Fiscal Research Division, shall consolidate the budget codes for the Department of Crime Control and Public Safety, the Department of Juvenile

Justice and Delinquency Prevention, and the Department of Correction into a single budget code for the Department of Public Safety. Fund codes within that budget code shall align with the new organizational structure of the Department of Public Safety. The new budget code shall be established by July 1, 2012.

**ABOLISH BUTNER PUBLIC SAFETY DIVISION**

**SECTION 19.3.(a)** The Butner Public Safety Division of the Department of Crime Control and Public Safety is abolished.

**SECTION 19.3.(b)** On or before July 1, 2011, the following actions shall be taken with respect to the real and personal property of the Butner Public Safety Division:

(1) The Governor shall convey to the Town of Butner all right, title, and interest in all of the personal property, tangible and intangible, of the Butner Public Safety Division. This conveyance shall be exempt from all statutes concerning in any way the disposition of personal property.

(2) The State of North Carolina shall lease to the Town of Butner, for a period of 99 years and for monetary consideration of one dollar ($1.00) per year, all real property allocated to or occupied by the Butner Public Safety Division as of April 1, 2011. The lease instrument shall contain (i) a provision that the Town of Butner agrees to use the leased property for public safety purposes and (ii) a provision that the Town of Butner, as lessee, agrees to maintain the property in its present condition and will not sell or damage any portion of the leased property.

**SECTION 19.3.(c)** The contract between the Town of Butner and the Department of Crime Control and Public Safety under G.S. 122C-408 terminates upon such conveyance.

**SECTION 19.3.(d)** G.S. 122C-408, 122C-411, 122C-414, 160A-288(d)(4), and 160A-288.2(d)(3) are repealed.

**SECTION 19.3.(e)** G.S. 143-341(8)i.3. reads as rewritten:

"3. To require on a schedule determined by the Department all State agencies to transfer ownership, custody or control of any or all passenger motor vehicles within the ownership, custody or control of that agency to the Department, except those motor vehicles under the ownership, custody or control of the Highway Patrol or the State Bureau of Investigation which are used primarily for law-enforcement ~~purposes, and except those motor vehicles under the ownership, custody or control of the Department of Crime Control and Public Safety for Butner Public Safety which are used primarily for law-enforcement, fire, or emergency purposes.~~purposes."

**SECTION 19.3.(f)** The Charter of the Town of Butner, as enacted by Section 1.1 of S.L. 2007-269, is amended by adding a new Article to read:

"ARTICLE IX. PROVISION OF FIRE PROTECTION SERVICES TO THE BUTNER POLICE AND FIRE PROTECTION DISTRICT.

"Section 9.1. **Provision of fire protection services.** The Town of Butner shall provide fire protection services to the Butner Fire and Police Protection District. The cost of providing these services shall be funded with (i) the tax proceeds transferred to the Town pursuant to Chapter 830 of the 1983 Session Laws, as amended, and (ii) any allocations from the State Fire Protection Grant Fund that are made from time to time."

**SECTION 19.3.(g)** Subsection 1(b) of Chapter 830 of the 1983 Session Laws, as amended by Section 43.3 of S.L. 2005-276, reads as rewritten:

"(b) The territorial jurisdiction set forth in subsection (a) of this section shall constitute the Butner Fire and Police Protection District. The tax collectors of Durham and Granville Counties shall annually collect a tax of twenty-five cents (25¢) per one hundred dollars ($100.00) valuation of all real and personal property in the portions of said district in their respective counties from year to year which tax shall be collected as county taxes are collected and shall remit the same to the ~~State Treasurer for deposit in the General Fund.~~Town of Butner for deposit."

**SECTION 19.3.(h)** Section 2 of Chapter 830 of the 1983 Session Laws reads as rewritten:

"Sec. 2. The purpose of this act is to ~~partially fund the expenses of the Butner Fire and Police Protection District.~~fund the cost of the fire protection services provided by the Town of Butner."

**SECTION 19.3.(i)** G.S. 122C-205 reads as rewritten:

**"§ 122C-205. Return of clients to 24-hour facilities.**

...

(c) Upon receipt of notice of an escape or breach of a condition of release as described in subsections (a) and (b) of this section, an appropriate law enforcement officer shall take the client into custody and have the client returned to the 24-hour facility from which the client has escaped or has been conditionally released. Transportation of the client back to the 24-hour facility shall be provided in the same manner as described in ~~G.S. 122C-251 and G.S. 122C-408(b).~~ G.S. 122C-251. Law enforcement agencies who are notified of a client's escape or breach of conditional release shall be notified of the client's return by the responsible 24-hour facility. Under the circumstances described in this section, the initial notification by the 24-hour facility of the client's escape or breach of conditional release shall be given by telephone communication to the appropriate law enforcement agency or agencies and, if available and appropriate, by Division of Criminal Information (DCI) message to any law enforcement agency in or out of state and by entry into the National Crime Information Center (NCIC) telecommunications system. As soon as reasonably possible following notification, written authorization to take the client into custody shall also be issued by the 24-hour facility. Under this section, law enforcement officers shall have the authority to take a client into custody upon receipt of the telephone notification or Division of Criminal Information message prior to receiving written authorization. The notification of a law enforcement agency does not, in and of itself, render this information public information within the purview of Chapter 132 of the General Statutes. However, the responsible law enforcement agency shall determine the extent of disclosure of personal identifying and background information reasonably necessary, under the circumstances, in order to assure the expeditious return of a client to the 24-hour facility involved and to protect the general public and is authorized to make such disclosure. The responsible law enforcement agency may also place any appropriate message or entry into either the Division of Criminal Information System or National Crime Information System, or both, as appropriate.

...

(h) The cost and expenses of transporting a respondent to or from a 24-hour facility is the responsibility of the county of residence of the respondent. ~~The State (when providing transportation under G.S. 122C-408(b)), a~~ A city, or a county is entitled to recover the reasonable cost of transportation from the county of residence of the respondent. The county of residence of the respondent shall reimburse the State, another county, or a city the reasonable transportation costs incurred as authorized by this subsection. The county of residence of the respondent is entitled to recover the reasonable cost of transportation it has paid to the State, a city, or a county. Provided that the county of residence provides the respondent or other individual liable for the respondent's support a reasonable notice and opportunity to object to the reimbursement, the county of residence of the respondent may recover that cost from:

(1) The respondent, if the respondent is not indigent;
(2) Any person or entity that is legally liable for the resident's support and maintenance provided there is sufficient property to pay the cost;
(3) Any person or entity that is contractually responsible for the cost; or
(4) Any person or entity that otherwise is liable under federal, State, or local law for the cost."

**SECTION 19.3.(j)** G.S. 122C-251 reads as rewritten:

**"§ 122C-251. Transportation.**

...

(b) Except as provided in subsections (f) and ~~(g) or in G.S. 122C-408(b),~~(g) of this section, transportation between counties under the involuntary commitment proceedings of this Article for admission to a 24-hour facility shall be provided by the county where the respondent is taken into custody. Transportation between counties under the involuntary commitment proceedings of this Article for respondents held in 24-hour facilities who have requested a change of venue for the district court hearing shall be provided by the county where the petition for involuntary commitment was initiated. Transportation between counties under the involuntary commitment proceedings of this Article for discharge of a respondent from a

24-hour facility shall be provided by the county of residence of the respondent. However, a respondent being discharged from a facility may use his own transportation at his own expense.

(c) Transportation of a respondent may be by city-or county-owned vehicles or by private vehicle by contract with the city or county. To the extent feasible, law enforcement officers transporting respondents shall dress in plain clothes and shall travel in unmarked vehicles. Further, law enforcement officers, to the extent possible, shall advise respondents when taking them into custody that they are not under arrest and have not committed a crime, but are being transported to receive treatment and for their own safety and that of others.

(d) In providing transportation of a respondent, a city or county shall provide a driver or attendant who is the same sex as the respondent, unless the law-enforcement officer allows a family member of the respondent to accompany the respondent in lieu of an attendant of the same sex as the respondent.

(e) In providing transportation required by this section, the law-enforcement officer may use reasonable force to restrain the respondent if it appears necessary to protect himself, the respondent, or others. No law-enforcement officer may be held criminally or civilly liable for assault, false imprisonment, or other torts or crimes on account of reasonable measures taken under the authority of this Article.

(f) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a clerk, a magistrate, or a district court judge, where applicable, may authorize the family or immediate friends of the respondent, if they so request, to transport the respondent in accordance with the procedures of this Article. This authorization shall only be granted in cases where the danger to the public, the family or friends of the respondent, or the respondent himself is not substantial. The family or immediate friends of the respondent shall bear the costs of providing this transportation.

(g) The governing body of a city or county may adopt a plan for transportation of respondents in involuntary commitment proceedings in this Article. Law-enforcement personnel, volunteers, or other public or private agency personnel may be designated to provide all or parts of the transportation required by involuntary commitment proceedings. Persons so designated shall be trained and the plan shall assure adequate safety and protections for both the public and the respondent. Law enforcement, other affected agencies, and the area authority shall participate in the planning. If any person other than a law-enforcement agency is designated by a city or county, the person so designated shall provide the transportation and follow the procedures in this Article. References in this Article to a law-enforcement officer apply to this person.

(h) The cost and expenses of transporting a respondent to or from a 24-hour facility is the responsibility of the county of residence of the respondent. ~~The State (when providing transportation under G.S. 122C-408(b)), a~~ A city, or a county is entitled to recover the reasonable cost of transportation from the county of residence of the respondent. The county of residence of the respondent shall reimburse the State, another county, or a city the reasonable transportation costs incurred as authorized by this subsection. The county of residence of the respondent is entitled to recover the reasonable cost of transportation it has paid to the State, a city, or a county. Provided that the county of residence provides the respondent or other individual liable for the respondent's support a reasonable notice and opportunity to object to the reimbursement, the county of residence of the respondent may recover that cost from:

(1) The respondent, if the respondent is not indigent;
(2) Any person or entity that is legally liable for the resident's support and maintenance provided there is sufficient property to pay the cost;
(3) Any person or entity that is contractually responsible for the cost; or
(4) Any person or entity that otherwise is liable under federal, State, or local law for the cost."

**SECTION 19.3.(k)** G.S. 122C-290(b) reads as rewritten:

"(b) If the respondent whose treatment is provided on an outpatient basis fails to comply with all or part of the prescribed treatment after reasonable effort to solicit the respondent's compliance or whose treatment is provided on an inpatient basis is discharged in accordance with G.S. 122C-205.1(b), the area authority or physician may request the clerk or magistrate to order the respondent taken into custody for the purpose of examination. Upon receipt of this request, the clerk or magistrate shall issue an order to a law enforcement officer to take the respondent into custody and to take him immediately to the designated area authority or physician for examination. The custody order is valid throughout the State. The law

enforcement officer shall turn the respondent over to the custody of the physician or area authority who shall conduct the examination and release the respondent or have the respondent taken to a 24-hour facility upon a determination that treatment in the facility will benefit the respondent. Transportation to the 24-hour facility shall be provided as specified in G.S. 122C-251, upon notice to the clerk or magistrate that transportation is ~~necessary, or as provided in G.S. 122C-408(b).~~ necessary. If placement in a 24-hour facility is to exceed 45 consecutive days, the area authority or physician shall notify the clerk of court by the 30th day and request a supplemental hearing as specified in G.S. 122C-291."

**REPORTS ON LAW ENFORCEMENT ACCREDITATION SERVICES**

**SECTION 19.4.** The State Highway Patrol, Alcohol Law Enforcement Division, State Capitol Police, and State Bureau of Investigation shall report by March 1, 2012, to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety, and to the Fiscal Research Division on any national associations that provide accreditation services for those law enforcement agencies, including, but not limited to, the Commission on Accreditation for Law Enforcement Agencies. The report shall include an itemization of the personnel and other costs associated with the service, a summary of the accreditation process, and a summary of the benefits gained from the services.

**STUDY THE FEASIBILITY OF ASSESSING A FEE FOR PROVIDING TRAFFIC CONTROL BY THE STATE HIGHWAY PATROL AT SPECIAL EVENTS**

**SECTION 19.5.(a)** The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee shall study the feasibility of assessing a fee for services provided by the State Highway Patrol for certain special events. In conducting this study, the Committee shall determine the costs associated with providing traffic control devices and personnel to provide traffic control and direction at special functions and events. The Committee shall also develop criteria to determine events, if any, for which a fee will be assessed and criteria to determine the amount of the fee, if any, that should be assessed.

**SECTION 19.5.(b)** The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee shall make a report to the 2012 Regular Session of the 2011 General Assembly no later than June 1, 2012, detailing the information required by this section and shall provide any recommended changes in current legislation or proposed new legislation if required.

**PART XX. DEPARTMENT OF ADMINISTRATION**

**STATE ENTITIES TO USE AGENCY FOR PUBLIC TELECOMMUNICATIONS**

**SECTION 20.1.** Part 22 of Article 9 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-426.11A. Use of Agency for Public Telecommunications required.**

Notwithstanding any other provision of law, the Agency for Public Telecommunications shall be the primary party with whom all State agencies, departments, and institutions other than The University of North Carolina System and the constituent institutions of the Community College System may contract for media placement and the creation of the media to be placed. Agencies, departments, and institutions may use another party only if the Agency for Public Telecommunications determines that the Agency for Public Telecommunications cannot fulfill the agency's, department's, or institution's needs. Any contract entered into contrary to the provisions of this section is voidable at the discretion of the Governor and the Council of State."

**TRANSFER OF NC HUMAN RELATIONS COMMISSION FROM DEPARTMENT OF ADMINISTRATION TO OFFICE OF ADMINISTRATIVE HEARINGS**

**SECTION 20.1A.(a)** The North Carolina Human Relations Commission created pursuant to G.S. 143B-391, other than the administration of the Martin Luther King, Jr. Commission created pursuant to G.S. 143B-426.34A, is hereby transferred by a Type I transfer, as defined in G.S. 143A-6, from the Department of Administration to the Office of Administrative Hearings.

**SECTION 20.1A.(b)** Part 9 of Article 9 of Chapter 143B of the General Statutes, G.S. 143B-391 and G.S. 143B-392, is recodified as G.S. 7A-761 and G.S. 7A-762 in Article 60 of the General Statutes.

**SECTION 20.1A.(c)** G.S. 7A-761, as recodified by this section, reads as rewritten:

"**§ 7A-761. North Carolina Human Relations Commission – creation; powers and duties.**

There is hereby created the North Carolina Human Relations Commission of the ~~Department of Administration.~~Office of Administrative Hearings. The North Carolina Human Relations Commission shall have the following functions and duties:

...

(7) To receive on behalf of the ~~Department of Administration~~Office of Administrative Hearings and to recommend expenditure of gifts and grants from public and private donors;

...

(10) To advise the ~~Secretary of Administration~~ Director of the Office of Administrative Hearings upon any matter the ~~Secretary~~ Director may refer to it;

...."

**SECTION 20.1A.(d)** G.S. 7A-762, as recodified of this section, reads as rewritten:

"**§ 7A-762. North Carolina Human Relations Commission – Members; selection; quorum; compensation.**

(a) The Human Relations Commission of the ~~Department of Administration~~Office of Administrative Hearings shall consist of 22 members. The Governor shall appoint one member from each of the 13 congressional districts, plus five members at large, including the chairperson. The Speaker of the North Carolina House of Representatives shall appoint two members to the Commission. The President Pro Tempore of the Senate shall appoint two members to the Commission. The terms of four of the members appointed by the Governor shall expire June 30, 1988. The terms of four of the members appointed by the Governor shall expire June 30, 1987. The terms of four of the members appointed by the Governor shall expire June 30, 1986. The terms of four of the members appointed by the Governor shall expire June 30, 1985. The terms of the members appointed by the Speaker of the North Carolina House of Representatives shall expire June 30, 1986. The terms of the members appointed by the Lieutenant Governor shall expire June 30, 1986. The initial term of office of the person appointed to represent the 12th Congressional District shall commence on January 3, 1993, and expire on June 30, 1996. At the end of the respective terms of office of the initial members of the Commission, the appointment of their successors shall be for terms of four years. No member of the commission shall serve more than two consecutive terms. A member having served two consecutive terms shall be eligible for reappointment one year after the expiration of his second term. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be filled in the manner of the original appointment for the unexpired term.

...

(d) All clerical and support services required by the Commission shall be supplied by the ~~Secretary of the Department of Administration.~~Director of the Office of Administrative Hearings."

**STUDY BY THE LEGISLATIVE RESEARCH COMMISSION OF THE DUTIES AND SERVICES OF THE NORTH CAROLINA HUMAN RELATIONS COMMISSION AND THE CIVIL RIGHTS DIVISION OF THE OFFICE OF ADMINISTRATIVE HEARINGS**

**SECTION 20.2.(a)** The Legislative Research Commission is authorized to study the duties and services of the North Carolina Human Relations Commission and the Civil Rights Division of the Office of Administrative Hearings to determine whether there is unnecessary overlap and duplication of services and recommend the placement of the Commission and Division in the appropriate agency or agencies.

**SECTION 20.2.(b)** The Legislative Research Commission may make an interim report to the 2011 General Assembly when it reconvenes in 2012 and shall make its final report to the 2013 General Assembly.

**SECTION 20.2.(c)** This section is effective when it becomes law.

**DOMESTIC VIOLENCE CENTER FUNDS**

**SECTION 20.3.** The Department of Administration, in administering the Domestic Violence Center Fund, G.S. 50B-9, shall adhere to the requirements of the law and shall not limit the number of grantees that are eligible in each county, or by any other geographic limitation. Every domestic violence center that was in operation by the preceding July 1, offers the services described in the statute, and is a nonprofit corporation or a local government entity shall receive an amount that is equal to that received by all other grantees of the Fund.

**USE OF CAPITAL PROJECT CONTINGENCY FUNDS TO INCREASE THE SPEED AND EFFICIENCY OF THE STATE CONSTRUCTION OFFICE**

**SECTION 20.4.(a)** Contingency reserve funds appropriated for capital improvement projects that are subject to the Department of Administration's review authority under G.S. 143-341(3)a. shall be placed in a statewide capital reserve administered by the Office of State Budget and Management to ensure optimal management and administration of funds needed for new construction and repairs and renovations projects.

Notwithstanding any other provision of law, upon a request of the administration of a State agency, and after consultation with the Office of State Construction, the Director of the Budget may, when it is in the best interest of the State to do so, allocate funds from the reserve to the requesting agency to be used for any of the purposes for which contingency funds may permissibly be used. Under no circumstances, may funds disbursed from the statewide capital reserve be used for a capital improvement project not previously authorized by the General Assembly.

**SECTION 20.4.(b)** Each fiscal year of the biennium, the Director of the Budget may reallocate a portion of the funds deposited in the reserve not to exceed eight hundred seventy-five thousand dollars ($875,000) in any fiscal year to the State Construction Office in the Department of Administration to be used to support the staffing needs of the Office in connection with carrying out its design and plan review, construction, building code compliance, inspection, and related duties imposed by G.S. 143-341(3) and other sections of the General Statutes to ensure timely and complete responses in an effort to reduce the need for the use of contingency fees.

**SECTION 20.4.(c)** This section is effective when it becomes law and applies to all open and active capital improvement projects, regardless of the source of funds.

**OFFICE OF STATE PERSONNEL/STUDY CENTRALIZED HUMAN RESOURCES FOR COUNCIL OF STATE OFFICES**

**SECTION 20.5.** By the convening of the 2012 Regular Session of the 2011 General Assembly, the Office of State Personnel (OSP), in conjunction with the Office of State Budget and Management, shall report to the General Assembly and to the Fiscal Research Division on the feasibility of transferring the human resources management functions currently divided among the various Council of State offices and departments to be centralized under the Office of State Personnel. At a minimum, the report shall include the following:

(1) A detailed analysis of the costs to the State of maintaining separate human resources offices in Council of State offices and departments.

(2) An estimate of potential cost savings that would accrue to the State if all human resources management functions were under the OSP.

(3) Recommendations on State law changes required to effectuate centralization of all human services resources management functions under the OSP.

**STATE BOARD OF ELECTIONS AND ETHICS**

**SECTION 20.6.(a)** The authority, powers, duties and functions, records, personnel, property, unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting and purchasing, of the State Ethics Commission are transferred to the State Board of Elections and Ethics Enforcement created in this section. The authority, powers, duties and functions, records, personnel, property, unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting and purchasing, of the State Board of Elections are transferred to the State Board of Elections and Ethics Enforcement created in this section. The authority, powers, duties and functions, records, personnel, property, unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting and purchasing, of the lobbying registration and lobbying enforcement

functions of the Secretary of State are transferred to the State Board of Elections and Ethics Enforcement created in this section. The Director of the Budget shall resolve any disputes arising out of this transfer.

**SECTION 20.6.(b)** The Office of State Budget and Management and the State Controller, in consultation with the Fiscal Research Division, shall consolidate the budget codes for the State Ethics Commission, the State Board of Elections, and the lobbying registration and lobbying enforcement functions of the Secretary of State into a single budget code for the State Board of Elections and Ethics Enforcement. Fund codes within that budget code shall align with the organizational structure of the State Board of Elections and Ethics Enforcement. The Office of State Budget and Management and the State Controller, in consultation with the Fiscal Research Division, shall consolidate the budget codes for the State Board of Elections, State Ethics Commission, and the Lobbyist Registration Division of the Department of the Secretary of State into a single budget code for the State Board of Elections and Ethics Enforcement. Fund codes within that budget code shall align with the new organizational structure of the State Board of Elections and Ethics Enforcement. The new budget code shall be established by July 1, 2012.

**SECTION 20.6.(c)** The General Statutes are amended by adding a new Chapter to read:

"**Chapter 163A.**

"**State Elections and Ethics Act.**

"**SUBCHAPTER I. GENERAL PROVISIONS.**

"Article 1.

"State Board of Elections and Ethics Enforcement.

"**§ 163A-100. Board of Elections and Ethics Enforcement established.**

There is established the State Board of Elections and Ethics Enforcement (hereinafter in this Chapter "State Board").

"**§ 163A-101. Membership.**

(a) The State Board shall consist of nine members. Three members shall be appointed by the Governor, no more than two of whom shall be of the same political party. Six members shall be appointed by the General Assembly, three upon the recommendation of the Speaker of the House of Representatives, no more than two of whom shall be of the same political party, and three upon the recommendation of the President Pro Tempore of the Senate, no more than two of whom shall be of the same political party. Members shall serve for three-year terms beginning January 1, 2012, except for the initial terms that shall be as follows:

(1) One member appointed by the Governor shall serve an initial term of one year beginning January 1, 2012.

(2) Two members appointed by the General Assembly, one upon the recommendation of the Speaker of the House of Representatives and one upon the recommendation of the President Pro Tempore of the Senate, shall serve initial terms of one year beginning January 1, 2012.

(3) One member appointed by the Governor shall serve an initial term of two years beginning January 1, 2012.

(4) Two members appointed by the General Assembly, one upon the recommendation of the Speaker of the House of Representatives and one upon the recommendation of the President Pro Tempore of the Senate, shall serve initial terms of two years beginning January 1, 2012.

(b) Members shall be removed from the Board only for misfeasance, malfeasance, or nonfeasance. Members appointed by the Governor may be removed by the Governor. Members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be removed by the Governor upon the recommendation of the Speaker. Members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate shall be removed by the Governor upon the recommendation of the President Pro Tempore.

(c) Vacancies in appointments made by the Governor shall be filled by the Governor for the remainder of any unfulfilled term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122 for the remainder of any unfulfilled term.

(d) No member while serving on the State Board or employee while employed by the State Board shall:

(1) Hold or be a candidate for any other office or place of trust or profit under the United States, the State, or a political subdivision of the State.
(2) Hold office in any political party above the precinct level.
(3) Participate in or contribute to the political campaign of any covered person or any candidate for a public office as a covered person over which the Board would have jurisdiction or authority.
(4) Otherwise be an employee of the State, a community college, or a local school administrative unit, or serve as a member of any other State board.

(e) The Governor shall annually appoint a member of the Board to serve as chair of the State Board. The State Board shall elect a vice-chair annually from its membership. The vice-chair shall act as the chair in the chair's absence or if there is a vacancy in that position.

(f) Members of the State Board shall be compensated for service as provided by law.

"**§ 163A-102. Meetings and quorum.**

The State Board shall meet at least quarterly and at other times as called by its chair or by four of its members. In the case of a vacancy in the chair, meetings may be called by the vice-chair. Five members of the State Board constitute a quorum.

"**§ 163A-103. Staff and offices.**

The State Board may employ professional and clerical staff, including an Executive Director. The State Board shall be located within the Department of Administration for administrative purposes only but shall exercise all of its powers, including the power to employ, direct, and supervise all personnel, independently of the Secretary of Administration. The State Board is subject to the direction and supervision of the Secretary of Administration only with respect to the management functions of coordinating and reporting.

"**§ 163A-104. Powers of the chair in the execution of State Board duties.**

(a) In the performance of the duties enumerated in this Chapter, the chair of the State Board shall have power to administer oaths, issue subpoenas, summon witnesses, and compel the production of papers, books, records, and other evidence.

(b) Upon the written request or requests of two or more members of the State Board, the chair shall issue subpoenas for designated witnesses or identified papers, books, records, and other evidence.

(c) In the absence of the chair or upon the chair's refusal to act, any two members of the State Board may issue subpoenas, summon witnesses, and compel the production of papers, books, records, and other evidence. In the absence of the chair or upon the chair's refusal to act, any member of the State Board may administer oaths.

(d) The State Board may petition the Superior Court of Wake County for the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct investigations of violations of this Chapter. The Court shall authorize subpoenas under this subsection when the Court determines they are necessary for the enforcement of this Chapter. Subpoenas issued under this subsection shall be enforceable by the Court through contempt powers. Venue shall be with the Superior Court of Wake County for any nonresident person, or that person's agent, who makes a reportable expenditure under this Chapter, and personal jurisdiction may be asserted under G.S. 1-75.4.

"**§ 163A-105. Executive Director of the State Board.**

(a) There is hereby created the position of Executive Director of the State Board, who shall perform all duties imposed by statute and such duties as might be assigned by the State Board.

(b) The State Board shall appoint an Executive Director for a term of four years with compensation determined by the State Personnel Commission. The Executive Director shall serve, unless removed for cause, until a successor is appointed. In the event of a vacancy, the vacancy shall be filled for the remainder of the term.

(c) The Executive Director shall be responsible for staffing, administration, and execution of the State Board's decisions and orders and shall perform such other responsibilities as may be assigned by the State Board.

"**SUBCHAPTER II. ETHICS AND LOBBYING.**

"Article 2.

"Definitions; General Provisions.

"**§ 163A-200. Definitions.**

The following definitions apply in this Subchapter:

(1) Blind trust. – A trust established by or for the benefit of a covered person or a member of the covered person's immediate family for divestiture of all control and knowledge of assets. A trust qualifies as a blind trust under this subdivision if the covered person or a member of the covered person's immediate family has no knowledge of the holdings and sources of income of the trust, the trustee of the trust is independent of and not associated with or employed by the covered person or a member of the covered person's immediate family and is not a member of the covered person's extended family, and the trustee has sole discretion as to the management of the trust assets.

(2) Board. – Any State board, council, committee, task force, authority, or similar public body, however denominated, created by statute or executive order, as determined and designated by the State Board, except for those public bodies that have only advisory authority.

(3) Business. – Any of the following organized for profit:

a. Association.
b. Business trust.
c. Corporation.
d. Enterprise.
e. Joint venture.
f. Organization.
g. Partnership.
h. Proprietorship.
i. Vested trust.
j. Every other business interest, including ownership or use of land for income.

(4) Business with which associated. – A business in which the covered person or filing person or any member of that covered person's or filing person's immediate family satisfies any of the criteria listed in a sub-subdivision of this subdivision. For purposes of this subdivision, the term "business" shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if (i) the covered person, filing person, or a member of the covered person's or filing person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund and (ii) the fund is publicly traded, or the fund's assets are widely diversified.

a. Is an employee.
b. Holds a position as a director, officer, partner, proprietor, or member or manager of a limited liability company, irrespective of the amount of compensation received or the amount of the interest owned.
c. Owns a legal, equitable, or beneficial interest of ten thousand dollars ($10,000) or more in the business or five percent (5%) of the business, whichever is less, other than as a trustee on a deed of trust.
d. Is a lobbyist registered under this Chapter.

(5) Committee. – The Legislative Ethics Committee as created in Part 3 of Article 14 of Chapter 120 of the General Statutes.

(6) Compensation. – Any money, thing of value, or economic benefit conferred on or received by any covered person or filing person in return for services rendered or to be rendered by that covered person or filing person or another. This term does not include campaign contributions properly received and reported as required by this Chapter.

(7) Confidential information. – Information defined as confidential by the law.

(8) Constitutional officers of the State. – Officers whose offices are established by Article III of the North Carolina Constitution.

(9) Contract. – Any agreement, including sales and conveyances of real and personal property, and agreements for the performance of services.

(10) Covered person. – A legislator, public servant, or judicial officer, as identified by the State Board under G.S. 163A-208.

(11) Designated individual. – A legislator, legislative employee, or public servant.

(12) Employing entity. – For public servants, any of the following bodies of State government of which the public servant is an employee or a member, or over which the public servant exercises supervision: agencies, authorities, boards, State boards, committees, councils, departments, offices, institutions and their subdivisions, and constitutional offices of the State. For legislators, it is the house of which the legislator is a member. For legislative employees, it is the authority that hired the individual. For judicial employees, it is the Chief Justice.

(13) Executive action. – The preparation, research, drafting, development, consideration, modification, amendment, adoption, approval, tabling, postponement, defeat, or rejection of a policy, guideline, request for proposal, procedure, regulation, or rule by a public servant purporting to act in an official capacity. This term does not include any of the following:

a. Present, prior, or possible proceedings of a contested case hearing under Chapter 150B of the General Statutes, of a judicial nature, or of a quasi-judicial nature.

b. A public servant's communication with a person, or another person on that person's behalf, with respect to any of the following:

1. Applying for a permit, license, determination of eligibility, or certification.

2. Making an inquiry about or asserting a benefit, claim, right, obligation, duty, entitlement, payment, or penalty.

3. Making an inquiry about or responding to a request for proposal made under Chapter 143 of the General Statutes.

4. Rate making.

c. Internal administrative functions, including those functions exempted from the definition of "rule" in G.S. 150B-2(8a).

d. Ministerial functions.

e. A public servant's communication with a person or another person on that person's behalf with respect to public comments made at an open meeting, or submitted as written comment, on a proposed executive action in response to a request for public comment, provided the identity of the person on whose behalf the comments are made is disclosed as part of the public participation and no reportable expenditure is made.

(14) Extended family. – Spouse, lineal descendant, lineal ascendant, sibling, spouse's lineal descendant, spouse's lineal ascendant, spouse's sibling, and the spouse of any of these individuals.

(15) Filing person. – An individual required to file a statement of economic interest under this Subchapter.

(16) Financial benefit. – A direct pecuniary gain or loss to the legislator, the public servant, or a person with which the legislator or public servant is associated, or a direct pecuniary loss to a business competitor of the legislator, the public servant, or a person with which the legislator or public servant is associated.

(17) Gift. – Anything of monetary value given or received without valuable consideration by or from a lobbyist, lobbyist principal, liaison personnel, or a person described under G.S. 138A-32(d)(1), (2), or (3). The following shall not be considered gifts under this subdivision:

a. Anything for which fair market value, or face value if shown, is paid by the covered person or legislative employee.

b. Commercially available loans made on terms not more favorable than generally available to the general public in the normal course of business if not made for lobbying.

c. Contractual arrangements or commercial relationships or arrangements made in the normal course of business if not made for lobbying.

d. Academic or athletic scholarships based on the same criteria as applied to the public.
e. Any campaign contribution properly reported as required under this Chapter.
f. Expressions of condolence related to a death of an individual, sent within a reasonable time of the death, if the expression is one of the following:
1. A sympathy card, letter, or note.
2. Flowers.
3. Food or beverages for immediate consumption.
4. Donations to a religious organization, charity, the State or a political subdivision of the State, not to exceed a total of two hundred dollars ($200.00) per death per donor.

(18) Governmental unit. – A political subdivision of the State or any other entity or organization created by a political subdivision of the State.

(19) Honorarium. – Payment for services for which fees are not legally or traditionally required.

(20) Immediate family. – An unemancipated child of the covered person residing in the household and the covered person's spouse, if not legally separated. A member of a covered person's extended family shall also be considered a member of the immediate family if actually residing in the covered person's household.

(21) In session. – One of the following:
a. The General Assembly is in extra session from the date the General Assembly convenes until the General Assembly:
1. Adjourns sine die.
2. Recesses or adjourns for more than 10 days.
b. The General Assembly is in regular session from the date set by law or resolution that the General Assembly convenes until the General Assembly:
1. Adjourns sine die.
2. Recesses or adjourns for more than 10 days.

(22) Judicial employee. – The director and assistant director of the Administrative Office of the Courts and any other individual, designated by the Chief Justice, employed in the Judicial Department whose annual compensation from the State is sixty thousand dollars ($60,000) or more.

(23) Judicial officer. – Justice or judge of the General Court of Justice, district attorney, clerk of court, or any individual elected or appointed to any of these positions prior to taking office.

(24) Legislative action. – The preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or other matter, whether or not the matter is identified by an official title, general title, or other specific reference, by a legislator or legislative employee acting or purporting to act in an official capacity. It also includes the consideration of any bill by the Governor for the Governor's approval or veto under Section 22(1) of Article II of the North Carolina Constitution or for the Governor to allow the bill to become law under Section 22(7) of Article II of the North Carolina Constitution.

(25) Legislative employee. – Employees and officers of the General Assembly, consultants and counsel to committees of either house of the General Assembly or of legislative State boards who are paid by State funds, and students at an accredited law school while in an externship program at the General Assembly approved by the Legislative Services Commission, but not including legislators, members of the Council of State, nonsupervisory employees of the Administrative Division's Facility Maintenance and Food Services staff, or pages.

(26) Legislator. – A member or presiding officer of the General Assembly, or an individual elected or appointed a member or presiding officer of the General Assembly before taking office.

(27) Liaison personnel. – Any State employee, counsel employed under G.S. 147-17, or officer whose principal duties, in practice or as set forth in that individual's job description, include lobbying legislators or legislative employees.

(28) Lobby or lobbying. – Any of the actions listed in this subdivision. The terms "lobby" or "lobbying" do not include communications or activities as part of a business, civic, religious, fraternal, personal, or commercial relationship which is not connected to legislative or executive action, or both.

a. Influencing or attempting to influence legislative or executive action, or both, through direct communication or activities with a designated individual or that designated individual's immediate family.

b. Developing goodwill through communications or activities, including the building of relationships, with a designated individual or that designated individual's immediate family with the intention of influencing current or future legislative or executive action, or both.

(29) Lobbyist. – An individual who engages in lobbying for payment and meets any of the criteria listed in this subdivision. The term "lobbyist" does not include individuals who are specifically exempted from this Subchapter under Part 5 of Article 5 of this Chapter or registered as liaison personnel under Part 4 of Article 5 of this Chapter.

a. Represents another person or governmental unit but is not directly employed by that person or governmental unit.

b. Contracts for payment for lobbying.

c. Is employed by a person, and a significant part of that employee's duties include lobbying. In no case shall an employee be considered a lobbyist if in no 30-day period less than five percent (5%) of that employee's actual duties include engaging in lobbying, as defined in subdivision (28)a. of this section, or if in no 30-day period less than five percent (5%) of that employee's actual duties include engaging in lobbying, as defined in subdivision (29)b. of this section.

(30) Lobbyist principal. – The person or governmental unit on whose behalf the lobbyist lobbies and who makes payment for the lobbying. In the case where a lobbyist is paid by a law firm, consulting firm, or other entity retained by a person or governmental unit for lobbying, the principal is the person or governmental unit whose interests the lobbyist represents in lobbying. In the case of a lobbyist employed or retained by an association or other organization, the lobbyist principal is the association or other organization, not the individual members of the association or other organization. The term "lobbyist principal" does not include those designating registered liaison personnel under Part 4 of Article 5 of this Chapter.

(31) Nonprofit corporation or organization with which associated. – Any not-for-profit corporation, organization, or association, incorporated or otherwise, that is organized or operating in the State primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes and of which the covered person, filing person, or any member of the covered person's or filing person's immediate family is a director, officer, governing board member, employee, lobbyist registered under this Subchapter, or independent contractor. The term "nonprofit corporation or organization with which associated" does not include any board, entity, or other organization created by this State or by any political subdivision of this State.

(32) Official action. – Any decision, including administration, approval, disapproval, preparation, recommendation, the rendering of advice, and investigation, made or contemplated in any proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, investigation, charge, or rule making.

(33) Participate. – To take part in, influence, or attempt to influence, including acting through an agent or proxy.

(34) Payment. – Any money, thing of value, or economic benefit conveyed to the lobbyist for lobbying, other than reimbursement of actual travel, administrative expenses, or subsistence.

(35) Permanent designee. – An individual designated by a public servant to serve and vote in the absence of the public servant on a regular basis on a board on which the public servant serves.

(36) Person. – Any individual, firm, partnership, committee, association, corporation, business, or any other organization or group of persons acting together. The term "person" does not include the State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State.

(37) Person with which the legislator is associated. – Any of the following:

a. A member of the legislator's extended family.

b. A client of the legislator.

c. A business with which the legislator or a member of the legislator's immediate family is associated.

d. A nonprofit corporation or association with which the legislator or a member of the legislator's immediate family is associated.

e. The State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State that employs the legislator or a member of the legislator's immediate family.

(38) Person with which the public servant is associated. – Any of the following:

a. A member of the public servant's extended family.

b. A client of the public servant.

c. A business with which the public servant or a member of the public servant's immediate family is associated.

d. A nonprofit corporation or association with which the public servant or a member of the public servant's immediate family is associated.

e. The State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State that employs the public servant or a member of the public servant's immediate family.

(39) Political party. – Either of the two largest political parties in the State based on statewide voter registration at the applicable time.

(40) Public servants. – All of the following:

a. Constitutional officers of the State and individuals elected or appointed as constitutional officers of the State prior to taking office.

b. Employees of the Office of the Governor.

c. Heads of all principal State departments, as set forth in G.S. 143B-6, who are appointed by the Governor.

d. The chief deputy and chief administrative assistant of each individual designated under sub-subdivision a. or c. of this subdivision.

e. Confidential assistants and secretaries as defined in G.S. 126-5(c)(2) to individuals designated under sub-subdivision a., c., or d. of this subdivision.

f. Employees in exempt positions designated in accordance with G.S. 126-5(d)(1), (2), or (2a) and confidential secretaries to these individuals.

g. Any other employees or appointees in the principal State departments as may be designated by the Governor to the extent that the designation does not conflict with the State Personnel Act.

h. Judicial employees.

i. All voting members of boards, including ex officio members, permanent designees of any voting member, and members serving by executive, legislative, or judicial branch appointment.

j. For The University of North Carolina, the voting members of the Board of Governors of The University of North Carolina, the president, the vice presidents, and the chancellors, the vice-chancellors, and voting members of the boards of trustees of the constituent institutions.

k. For the North Carolina Community College System, the voting members of the State Board of Community Colleges, the president and the chief financial officer of the North Carolina Community College System, the president, chief financial officer, and chief administrative officer of each community college, and voting members of the boards of trustees of each community college.

l. Members of the State Board, the executive director, and the assistant executive directors of the State Board.

m. Individuals under contract with the State working in or against a position included under this subdivision.

n. The director of the Office of State Personnel.

o. The State Controller.

p. The chief information officer, deputy chief information officers, chief financial officers, and general counsel of the Office of Information Technology Services.

q. The director of the North Carolina Museum of Art.

r. The executive director of the Agency for Public Telecommunications.

s. The Commissioner of Motor Vehicles.

t. The Commissioner of Banks and the Chief Deputy Commissioner of Banks.

u. The executive director of the North Carolina Housing Finance Agency.

v. The executive director, chief financial officer, and chief operating officer of the North Carolina Turnpike Authority.

(41) Reportable expenditure. – Any of the following that directly or indirectly is made to, at the request of, for the benefit of, or on the behalf of a designated individual or that individual's immediate family member:

a. Any advance, contribution, conveyance, deposit, distribution, payment, gift, retainer, fee, salary, honorarium, reimbursement, loan, pledge, or thing of value greater than ten dollars ($10.00) per designated individual per single calendar day.

b. A contract, agreement, promise, or other obligation whether or not legally enforceable.

(42) State agency. – An agency in the executive branch of the government of this State, including the Governor's Office, a board, a department, a division, and any other unit of government in the executive branch.

(43) State Board. – The State Board of Elections and Ethics Enforcement, as established by this Chapter.

(44) Solicitation of others. – A solicitation of members of the public to communicate directly with or contact one or more designated individuals to influence or attempt to influence legislative or executive action to further the solicitor's position on that legislative or executive action, when that request is made by any of the methods listed in this subdivision. The term "solicitation of others" does not include communications made by a person or by the person's agent to that person's stockholders, employees, board members, officers, members, subscribers, or other recipients who have affirmatively assented to receive the person's regular publications or notices.

a. A broadcast, cable, or satellite transmission.

b. An e-mail communication or a Web site posting.

c. A communication delivered by print media, as defined in G.S. 163-278.38Z.

d. A letter or other written communication delivered by mail or by comparable delivery service.

e. Telephone.
f. A communication at a conference, meeting, or similar event.

(45) Vested trust. – A trust, annuity, or other funds held by a trustee or other third party for the benefit of the covered person or a member of the covered person's immediate family, except a blind trust. The term "vested trust" does not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if:
a. The covered person or a member of the covered person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund.
b. The fund is publicly traded or the fund's assets are widely diversified.

"**§ 163A-201. Application to the Lieutenant Governor.**

For purposes of this Subchapter, the Lieutenant Governor shall be considered a legislator when carrying out the Lieutenant Governor's duties under Section 13 of Article II of the North Carolina Constitution and a public servant for all other purposes.

"**§ 163A-202. Application to candidates to certain offices.**

For purposes of this Subchapter, the term "legislator" and the term "public servant" shall include an individual having filed a notice of candidacy or otherwise qualified to have that individual's name on the ballot for such office under this Chapter.

"**§ 163A-203. Education programs.**

(a) The State Board shall develop and implement an ethics and lobbying education and awareness program designed to instill in all covered persons and legislative employees a keen and continuing awareness of their ethical obligations and a sensitivity to situations that might result in real or potential conflicts of interest.

(b) The State Board shall offer basic ethics and lobbying education and awareness presentations to all public servants upon their election, appointment, or employment and shall offer periodic refresher presentations as the State Board deems appropriate. Every public servant shall participate in an ethics and lobbying presentation approved by the State Board within six months of the public servant's election, reelection, appointment, or employment and shall attend refresher ethics education presentations at least every two years thereafter in a manner as the State Board deems appropriate. This subsection shall not apply to judicial officers.

(c) A public servant appointed to a board determined and designated as nonadvisory under G.S. 163A-208(a)(3) shall attend an ethics and lobbying presentation approved by the State Board within six months of notification of the designation by the State Board and at least every two years thereafter in a manner as the State Board deems appropriate.

(d) The State Board, jointly with the Legislative Ethics Committee, shall make basic ethics and lobbying education and awareness presentations to all legislators and legislative employees upon their election, reelection, appointment, or employment and shall offer periodic refresher presentations as the State Board and the Committee deem appropriate. Every legislator shall participate in an ethics and lobbying presentation approved by the State Board and Committee within two months of either the convening of the General Assembly to which the legislator is elected or within two months of the legislator's appointment, whichever is later. Every legislative employee shall participate in an ethics and lobbying presentation approved by the State Board and Committee within three months of employment and shall attend refresher ethics education presentations at least every two years thereafter in a manner as the State Board and Committee deem appropriate.

(e) The State Board shall develop and implement a lobbying education and awareness program designed to instill in lobbyists and lobbyists' principals a keen and continuing awareness of their obligations and sensitivity to situations that might result in real or potential violation of this Subchapter or other related laws. The State Board shall make lobbying education and awareness programs available to lobbyists and lobbyists' principals.

(f) Upon request, the State Board shall assist each State agency in developing in-house ethics and lobbying education programs and procedures necessary or desirable to meet the State agency's particular needs for ethics education, conflict identification, and conflict avoidance.

(g) Each State agency head shall designate an ethics liaison who shall maintain active communication with the State Board on all State agency ethics and lobbying issues. The ethics liaison shall attend ethics and lobbying education and awareness programs as provided under this section. The ethics liaison shall continuously assess and advise the State Board of any

issues or conduct which might reasonably be expected to result in a conflict of interest and seek advice and rulings from the State Board as to their appropriate resolution.

(h) The State Board shall publish a newsletter containing summaries of the State Board's opinions, policies, procedures, and interpretive bulletins with respect to ethics and lobbying, as issued from time to time. The newsletter shall be distributed to all covered persons and legislative employees. Publication under this subsection may be done electronically.

(i) The State Board shall assemble and maintain a collection of relevant State laws, rules, and regulations and set forth ethical standards applicable to covered persons and lobbying laws and regulations. This collection shall be made available electronically as resource material.

"**§ 163A-204. Requests for advice.**

(a) At the written request of any public servant or legislative employee, any individual who is responsible for the supervision or appointment of a public servant or legislative employee, legal counsel for any public servant or legislative employee, any ethics liaison under G.S. 163A-203, or any member of the State Board, the State Board shall render advice on specific questions involving the meaning and application of Articles 3 and 4 of this Chapter and the public servant's or legislative employee's compliance therewith. This subsection shall apply to judicial officers only for advice related to Article 3 of this Chapter.

(b) At the request of a legislator, the State Board shall render recommended advice on specific questions involving the meaning and application of this Subchapter and Part 1 of Article 14 of Chapter 120 of the General Statutes and the legislator's compliance therewith. Any recommended formal advisory opinion issued to a legislator under this subsection shall immediately be delivered to the chairs of the Committee, together with a copy of the request. Except for the Lieutenant Governor, the immunity granted under this section shall not apply after the time the Committee modifies or overturns the advisory opinion of the State Board in accordance with G.S. 120-104.

(c) At the written request of any person, State agency, or governmental unit affected by Article 5 of this Subchapter, the State Board shall render advice on specific questions involving the meaning and application of Article 5 of this Subchapter and that person's, State agency's, or any governmental unit's compliance therewith.

(d) On its own motion, the State Board may render advisory opinions on specific questions involving the meaning and application of this Subchapter.

(e) All written requests for advice and advice rendered in response to those requests shall relate prospectively to real or reasonably anticipated fact settings or circumstances.

(f) A request for a formal advisory opinion under subsection (a), (b), or (c) of this section shall be in writing, electronic or otherwise. The State Board shall issue formal advisory opinions having prospective application only. Any individual, person, or governmental unit who relies upon the advice provided on a specific matter addressed by the requested formal advisory opinion shall be immune from all of the following:

(1) Investigation by the State Board, except for an inquiry under G.S. 163A-206(b)(3).

(2) Any adverse action by the employing entity.

(g) At the request of the State Auditor, the State Board shall render advisory opinions on specific questions involving the meaning and application of this Subchapter, Article 14 of Chapter 120 of the General Statutes, and an affected person's compliance therewith. The request shall be in writing, electronic or otherwise, and relate to real fact settings and circumstances. Except when the question involves a question governed by subsection (b) of this section, the State Board shall issue an advisory opinion under this subsection within 60 days of the receipt of all information deemed necessary by the State Board to render an opinion. If the question involves a question governed by subsection (b) of this section, the State Board shall comply with the provisions of that section prior to responding to the State Auditor by delivering the recommended advisory opinion to the Committee within 60 days of the receipt of all information deemed necessary by the State Board to render an opinion. The Committee shall act on the opinion within 30 days of receipt, and the Committee shall deliver the opinion to the State Auditor. If the Committee fails to act on a recommended advisory opinion under this subsection within 30 days of receipt, the State Board shall deliver its recommended advisory opinion to the State Auditor. Notwithstanding subsection (k) of this section, the Auditor may only release those portions of the advisory opinion necessary to comply with the requirements of G.S. 147-64.6(c)(1).

(h) Staff to the State Board may issue advice, but not formal or recommended formal advisory opinions, under procedures adopted by the State Board.

(i) The State Board shall publish its formal advisory opinions within 30 days of issuance. These formal advisory opinions shall be edited for publication purposes as necessary to protect the identities of the individuals requesting formal advisory opinions. When the State Board issues a recommended formal advisory opinion to a legislator under subsection (b) of this section, the State Board shall publish only the edited formal advisory opinion of the Committee within 30 days of receipt of the edited opinion from the Committee.

(j) Except as provided under subsections (g), (i), and (k) of this section, a request for advice, any advice provided by State Board staff, any formal or recommended formal advisory opinions, any supporting documents submitted or caused to be submitted to the State Board or State Board staff, and any documents prepared or collected by the State Board or State Board staff in connection with a request for advice are confidential. The identity of the individual making the request for advice, the existence of the request, and any information related to the request may not be revealed without the consent of the requestor. An individual who requests advice or receives advice, including a formal or recommended formal advisory opinion, may authorize the release of the request, the advice, or any supporting documents to any other person, the State, or any governmental unit.

For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advice, any advice, and any documents related to requests for advice are not "public records" as defined in G.S. 132-1.

(k) Staff to the State Board may share with staff to the Committee all information and documents related to requests for advice made by legislators under this section. The information and documents in the possession of staff to the Committee are confidential and are not public records.

(l) Requests for advice may be withdrawn by the requestor at any time prior to the issuance of the advice.

"**§§ 163A-209 through 163A-249: Reserved for future codification purposes.**

"**§ 163A-250. Enforcement.**

In addition to any other remedy, penalty, or crime in this Subchapter:

(1) Violation of Articles 3 and 4 of this Chapter by any covered person or legislative employee is grounds for disciplinary action. Except as specifically provided in this Chapter and for perjury under G.S. 163A-206 and G.S. 138A-24, no criminal penalty shall attach for any violation of Articles 3 and 4 of this Chapter.

(2) The willful failure of any public servant serving on a board to comply with Articles 3 and 4 of this Chapter is misfeasance, malfeasance, or nonfeasance. In the event of misfeasance, malfeasance, or nonfeasance, the offending public servant serving on a board is subject to removal from the board of which the public servant is a member. For appointees of the Governor and members of the Council of State, the appointing authority may remove the offending public servant. For appointees of the Speaker of the House of Representatives, the Speaker of the House of Representatives may remove the offending public servant. For appointees of the General Assembly made upon the recommendation of the Speaker of the House of Representatives, the Governor at the recommendation of the Speaker of the House of Representatives may remove the offending public servant. For appointees of the President Pro Tempore of the Senate, the President Pro Tempore of the Senate may remove the offending public servant. For appointees of the General Assembly made upon the recommendation of the President Pro Tempore of the Senate, the Governor at the recommendation of the President Pro Tempore of the Senate may remove the offending public servant. For public servants elected to a board by either the Senate or House of Representatives, the electing house of the General Assembly shall exercise the discretion of whether to remove the offending public servant. For all other appointees, the State Board shall exercise the discretion of whether to remove the offending public servant.

(3) The willful failure of any public servant serving as a State employee to comply with Articles 3 and 4 of this Chapter is a violation of a written work

order, thereby permitting disciplinary action as allowed by the law, including termination from employment. For employees of State departments headed by a member of the Council of State, the appropriate member of the Council of State shall make all final decisions on the manner in which the offending public servant shall be disciplined. For public servants who are judicial employees, the Chief Justice shall make all final decisions on the matter in which the offending judicial employee shall be disciplined. For legislative employees, the Legislative Services Commission shall make or refer to the hiring authority all final decisions on the matter in which the offending legislative employee shall be disciplined. For public servants appointed or elected for The University of North Carolina or the North Carolina Community College System, the appointing or electing authority shall make all final decisions on the matter in which the offending public servant shall be disciplined. For any other public servant serving as a State employee, the Governor shall make all final decisions on the manner in which the offending public servant shall be disciplined.

(4) The willful failure of any constitutional officer of the State to comply with Articles 3 and 4 of this Subchapter is malfeasance in office for purposes of G.S. 123-5.

(5) The willful failure of a legislator, other than the Lieutenant Governor, to comply with Articles 3 and 4 of this Chapter is grounds for sanctions under G.S. 120-103.1.

(6) The State Board may seek to enjoin violations of G.S. 138A-34.

(7) Whoever willfully violates any provision of Article 3 or 4 of this Chapter shall be guilty of a Class 1 misdemeanor, except as provided in those Articles. In addition, no lobbyist who is convicted of a violation of the provisions of those Articles shall in any way act as a lobbyist for a period of two years from the date of conviction.

(8) In addition to the criminal penalties set forth in this section, the State Board may levy civil fines for a violation of any provision of Article 5 of this Chapter up to five thousand dollars ($5,000) per violation.

(9) Complaints of violations of this Subchapter involving the State Board or any member or employee of the State Board shall be referred to the Attorney General for investigation. The Attorney General shall, upon receipt of a complaint, make an appropriate investigation thereof, and the Attorney General shall forward a copy of the investigation to the district attorney of the prosecutorial district, as defined in G.S. 7A-60, of which Wake County is a part, who shall prosecute any person or governmental unit who violates any provision of this Subchapter.

(10) Nothing in this Subchapter affects the power of the State to prosecute any person for any violation of the criminal law.

"Article 6. Reserved for future codification purposes.
"Article 7. Reserved for future codification purposes.
"Article 8. Reserved for future codification purposes.
"Article 9. Reserved for future codification purposes.

"**SUBCHAPTER III. ELECTION ADMINISTRATION.**

"Article 10.

"...

"Article 12.
"General Provisions.

"...

"Article 38: Reserved for future codification purposes.
"Article 39: Reserved for future codification purposes.

"**SUBCHAPTER IV. CAMPAIGN FINANCE REGULATION.**

"Article 45."

**SECTION 20.6.(d)** Article 1 of Chapter 138A of the General Statutes is repealed.

**SECTION 20.6.(e)** The following statutes are repealed: G.S. 138A-6, 138A-7, 138A-8, 38A-9, 138A-13, and 138A-14.

**SECTION 20.6.(f)** The following statutes are recodified:

(1) G.S. 138A-10 as G.S. 163A-208.
(2) G.S. 138A-11 as G.S. 163A-205.
(3) G.S. 138A-12 as G.S. 163A-206.
(4) G.S. 138A-15 is as G.S. 163A-207.
(5) Article 3 of Chapter 138A of the General Statutes as Article 3 of Chapter 163A of the General Statutes.

**SECTION 20.6.(g)** The Revisor of Statutes shall change the term "this Chapter" to "this Subchapter" wherever it appears in G.S. 138A-15, 138A-21, 138A-22, 138A-24, and 138A-25 as recodified by subsection (f) of this section.

**SECTION 20.6.(h)** Article 4 of Chapter 138A of the General Statutes is recodified as Article 4 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Subchapter" wherever it appears in G.S. 138A-36, 138A-39, and 138A-41 as recodified by this subsection.

**SECTION 20.6.(i)** The following statutes are repealed:
(1) Article 5 of Chapter 138A of the General Statutes.
(2) Article 1 of Chapter 120C of the General Statutes.

**SECTION 20.6.(j)** Article 2 of Chapter 120C of the General Statutes is recodified as Part 1 of Article 5 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Article" wherever it appears in G.S. 120C-200, 120C-206, 120C-215, and 120C-216 as recodified by this subsection.

**SECTION 20.6.(k)** Article 3 of Chapter 120C of the General Statutes is recodified as Part 2 of Article 5 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Article" wherever it appears in G.S. 120C-301, 120C-303, and 120C-304 as recodified by this subsection.

**SECTION 20.6.(l)** Article 4 of Chapter 120C of the General Statutes is recodified as Part 3 of Article 5 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Article" wherever it appears in G.S. 120C-400 and G.S. 120C-405 as recodified by this subsection.

**SECTION 20.6.(m)** Article 5 of Chapter 120C of the General Statutes is recodified as Part 4 of Article 5 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Article" wherever it appears in G.S. 120C-501 as recodified by this subsection.

**SECTION 20.6.(n)** Article 6 of Chapter 120C of the General Statutes is repealed.

**SECTION 20.6.(o)** Article 7 of Chapter 120C of the General Statutes is recodified as Part 5 of Article 5 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Article" wherever it appears in G.S. 120C-700, as recodified by this subsection.

**SECTION 20.6.(p)** Article 8 of Chapter 120C of the General Statutes is recodified as Part 6 of Article 5 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Article" wherever it appears in G.S. 120C-800, as recodified by this subsection.

**SECTION 20.6.(q)** The following statutes are recodified:
(1) Article 1 of Chapter 163 of the General Statutes as Article 10 of Chapter 163A of the General Statutes.
(2) Article 2 of Chapter 163 of the General Statutes as Article 11 of Chapter 163A of the General Statutes.

**SECTION 20.6.(r)** The following statutes are repealed: G.S. 163-19, 163-20, and 163-21.

**SECTION 20.6.(s)** G.S. 163-22 is recodified as G.S. 163A-1200, to be in Article 12 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Subchapter" wherever it appears in G.S. 163-22 as recodified by this subsection.

**SECTION 20.6.(t)** G.S. 163-22.2 is recodified as G.S. 163A-1201, to be in Article 12 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "Chapter 163 of the General Statutes" to "this Subchapter" wherever it appears in G.S. 163-22.2 as recodified by this subsection.

**SECTION 20.6.(u)** G.S. 163-22.3 is recodified as G.S. 163A-1202, to be in Article 12 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term

"Article 11 of this Chapter" to "this Subchapter" wherever it appears in G.S. 163-22.3 as recodified by this subsection.

**SECTION 20.6.(v)** G.S. 163-23 is repealed.

**SECTION 20.6.(w)** G.S. 163-24 is recodified as G.S. 163A-1203, to be in Article 12 of Chapter 163A of the General Statutes.

**SECTION 20.6.(x)** G.S. 163-25, as amended by S.L. 2011-31, is recodified as G.S. 163-1204, to be in Article 12 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "Chapter 163 of the General Statutes" to "this Subchapter" wherever it appears in G.S. 163-25, as amended by S.L. 2011-31 and as recodified by this subsection.

**SECTION 20.6.(y)** The following statutes are repealed: G.S. 163-26 and G.S. 163-27.

**SECTION 20.6.(z)** G.S. 163-27.1 is recodified as G.S. 163A-1205, to be in Article 12 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Subchapter" wherever it appears in G.S. 163-27.1 as recodified by this subsection.

**SECTION 20.6.(aa)** G.S. 163-28 is repealed.

**SECTION 20.6.(bb)** Article 4 of Chapter 163 of the General Statutes is recodified as Article 13 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Subchapter" wherever it appears in Article 4 of Chapter 163 of the General Statutes as recodified by this subsection. The Revisor of Statutes shall change the term "Articles 4, 5, and 20 of this Chapter" to "this Subchapter" wherever it appears in G.S. 163-33.1 as recodified by this subsection. The Revisor of Statutes shall change the term "Article 11 of this Chapter" to "this Subchapter" wherever it appears in G.S. 163-33.3 as recodified by this subsection.

**SECTION 20.6.(cc)** Article 4A of Chapter 163 of the General Statutes is recodified as Article 14 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "Article 22A of this Chapter" to "Subchapter IV of this Chapter" wherever it appears in G.S. 163-40.1 as recodified by this subsection.

**SECTION 20.6.(dd)** Article 5 of Chapter 163 of the General Statutes is recodified as Article 15 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Subchapter" wherever it appears in Article 5 of Chapter 163 of the General Statutes as recodified by this subsection.

**SECTION 20.6.(ee)** Article 6 of Chapter 163 of the General Statutes is recodified as Article 16 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Subchapter" wherever it appears in Article 6 of Chapter 163 of the General Statutes as recodified by this subsection.

**SECTION 20.6.(ff)** Article 7A of Chapter 163 of the General Statutes is recodified as Article 17 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Subchapter" wherever it appears in Article 7A of Chapter 163 of the General Statutes as recodified by this subsection. The Revisor of Statutes shall change the term "Article 8 of this Chapter" to "this Subchapter" wherever it appears in G.S. 163-82.7 and G.S. 163-82.10B as recodified by this subsection.

**SECTION 20.6.(gg)** The following statutes are recodified:

(1) Article 8 of Chapter 163 of the General Statutes as Article 18 of Chapter 163A of the General Statutes.

(2) Article 8A of Chapter 163 of the General Statutes as Article 19 of Chapter 163A of the General Statutes.

**SECTION 20.6.(hh)** Article 9 of Chapter 163 of the General Statutes is recodified as Article 20 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Subchapter" wherever it appears in G.S. 163-97 as recodified by this subsection.

**SECTION 20.6.(ii)** Article 10 of Chapter 163 of the General Statutes is recodified as Article 21 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Subchapter" wherever it appears in Article 10 of Chapter 163 of the General Statutes as recodified by this subsection. The Revisor of Statutes shall change the term "Article 11B of this Chapter" to "Article 23 of this Chapter" wherever it appears in G.S. 163-106 as recodified by this subsection.

**SECTION 20.6.(jj)** Article 11 of Chapter 163 of the General Statutes is recodified as Article 22 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "Article 14A of this Chapter" to "this Subchapter" wherever it appears in G.S. 163-122 as recodified by this subsection. The Revisor of Statutes shall change the term "Article 25 of this Chapter" to "Article 37 of this Chapter" wherever it appears in G.S. 163-122 as recodified by this subsection. The Revisor of Statutes shall change the term "Article 11B of this Chapter" to "this Subchapter" wherever it appears in G.S. 163-122 as recodified by this subsection. The Revisor of Statutes shall change the term "Subchapter IX of Chapter 163 of the General Statutes" to "this Subchapter" wherever it appears in G.S. 163-122 as recodified by this subsection.

**SECTION 20.6.(kk)** Article 11B of Chapter 163 of the General Statutes is recodified as Article 23 of Chapter 163A of the General Statutes.

**SECTION 20.6.(ll)** Article 12 of Chapter 163 of the General Statutes is recodified as Article 24 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "Article 12A of this Chapter" to "Article 25 of this Chapter" wherever it appears in Article 12 of Chapter 163 of the General Statutes as recodified by this subsection. The Revisor of Statutes shall change the term "Article 5 of this Chapter" to "Article 15 of this Chapter" wherever it appears in G.S. 163-130.2 as recodified by this subsection.

**SECTION 20.6.(mm)** Article 12A of Chapter 163 of the General Statutes is recodified as Article 25 of Chapter 163A of the General Statutes.

**SECTION 20.6.(nn)** Article 14A of Chapter 163 of the General Statutes is recodified as Article 26 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Subchapter" wherever it appears in Article 14A of Chapter 163 of the General Statutes as recodified by this subsection. The Revisor of Statutes shall change the term "Article 15A of this Chapter" to "Article 27 of this Chapter" wherever it appears in Article 14A of Chapter 163 of the General Statutes as recodified by this subsection.

**SECTION 20.6.(oo)** Article 15A of Chapter 163 of the General Statutes is recodified as Article 27 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "Article 14A of this Chapter" to "Article 26 of this Chapter" wherever it appears in Article 15A of Chapter 163 of the General Statutes as recodified by this subsection.

**SECTION 20.6.(pp)** Article 17 of Chapter 163 of the General Statutes is recodified as Article 28 of Chapter 163A of the General Statutes.

**SECTION 20.6.(qq)** Article 18 of Chapter 163 of the General Statutes is recodified as Article 29 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Subchapter" wherever it appears in Article 18 of Chapter 163 of the General Statutes as recodified by this subsection.

**SECTION 20.6.(rr)** Article 18A of Chapter 163 of the General Statutes is recodified as Article 30 of Chapter 163A of the General Statutes.

**SECTION 20.6.(ss)** The Revisor of Statutes shall change the term "Article 9 of Chapter 163 of the General Statutes" to "Article 20 of this Chapter" wherever it appears in Article 14A of Chapter 163 of the General Statutes.

**SECTION 20.6.(tt)** Article 19 of Chapter 163 of the General Statutes is recodified as Article 31 of Chapter 163A of the General Statutes.

**SECTION 20.6.(uu)** Article 20 of Chapter 163 of the General Statutes is recodified as Article 32 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "Articles 20 and 21 of this" to "this Article and Article 33 of this Chapter" wherever it appears in Article 20 of Chapter 163 of the General Statutes as recodified by this subsection. The Revisor of Statutes shall change the term "Article 20 of this Chapter" to "this Article" wherever it appears in Article 20 of Chapter 163 of the General Statutes as recodified by this subsection. The Revisor of Statutes shall change the term "Article 21 of this Chapter" to "Article 33 of this Chapter" wherever it appears in Article 20 of Chapter 163 of the General Statutes.

**SECTION 20.6.(vv)** Article 21 of Chapter 163 of the General Statutes is recodified as Article 33 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "Article 20 of this Chapter" to "Article 32 of this Chapter" wherever it appears in G.S. 163-246 as recodified by this subsection. The Revisor of Statutes shall change the term "this Chapter" to "this Subchapter" wherever it appears in Article 21 of Chapter 163 of the General Statutes. The Revisor of Statutes shall change the term "Chapter 163 of the General

Statutes" to "this Subchapter" wherever it appears in Article 21 of Chapter 163 of the General Statutes.

**SECTION 20.6.(ww)** Article 22 of Chapter 163 of the General Statutes is recodified as Article 34 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Subchapter" wherever it appears in Article 22 of Chapter 163 of the General Statutes as recodified by this subsection.

**SECTION 20.6.(xx)** Article 22A of Chapter 163 of the General Statutes is recodified as Article 45 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Subchapter" wherever it appears in Article 22A of Chapter 163 of the General Statutes. The Revisor of Statutes shall change the term "Article 11 of Chapter 163 of the General Statutes" to "Article 22 of this Chapter" wherever it appears in G.S. 163-278.13C as recodified by this subsection. The Revisor of Statutes shall change the term "Article 22 of this Chapter" to "Article 34 of this Chapter" wherever it appears in G.S. 163-278.19 as recodified by this subsection. The Revisor of Statutes shall change the term "Article 22D of this Chapter" to "Article 47 of this Chapter" wherever it appears in G.S. 163-278.13 as recodified by this subsection. The Revisor of Statutes shall change the term "Article 22J of this Chapter" to "Article 50 of this Chapter" wherever it appears in G.S. 163-278.13 as recodified by this subsection. The Revisor of Statutes shall change the term "Article 22M of Chapter 163 of the General Statutes" to "Article 51 of this Chapter" wherever it appears in G.S. 163-278.16B as recodified by this subsection.

**SECTION 20.6.(yy)** Article 22B of Chapter 163 of the General Statutes is recodified as Article 46 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "Article 22A of this Chapter" to "Article 45 of this Chapter" wherever it appears in Article 22B of the General Statutes as recodified by this subsection.

**SECTION 20.6.(zz)** Article 22D of Chapter 163 of the General Statutes is recodified as Article 47 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "Article 22A of this Chapter" to "Article 45 of this Chapter" wherever it appears in G.S. 163-278.64 as recodified by this subsection. The Revisor of Statutes shall change the term "Article 25 of this Chapter" to "Article 37 of this Chapter" wherever it appears in G.S. 163-278.64 as recodified by this subsection.

**SECTION 20.6.(aaa)** Article 22G of Chapter 163 of the General Statutes is recodified as Article 48 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "Article 22A of this Chapter" to "Article 45 of this Chapter" wherever it appears in Article 22G of Chapter 163 of the General Statutes as recodified by this subsection.

**SECTION 20.6.(bbb)** Article 22H of Chapter 163 of the General Statutes is recodified as Article 49 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "Article 22A of this Chapter" to "Article 45 of this Chapter" wherever it appears in Article 22H of Chapter 163 of the General Statutes as recodified by this subsection.

**SECTION 20.6.(ccc)** Article 22J of Chapter 163 of the General Statutes is recodified as Article 50 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "Article 22A of this Chapter" to "Article 45 of this Chapter" wherever it appears in G.S. 163-278.98 as recodified by this subsection.

**SECTION 20.6.(ddd)** Article 22M of Chapter 163 of the General Statutes is recodified as Article 51 of Chapter 163A of the General Statutes.

**SECTION 20.6.(eee)** Article 23 of Chapter 163 of the General Statutes is recodified as Article 35 of Chapter 163A of the General Statutes. The Revisor of Statutes shall change the term "this Chapter" to "this Subchapter" wherever it appears in Article 23 of Chapter 163 of the General Statutes as recodified by this subsection. The Revisor of Statutes shall change the term "Article 8 of this Chapter" to "Article 18 of this Chapter" wherever it appears in Article 23 of Chapter 163 of the General Statutes as recodified by this subsection. The Revisor of Statutes shall change the term "Chapter 163" to "this Subchapter" wherever it appears in Article 23 of Chapter 163 of the General Statutes, as amended by S.L. 2011-31 and as recodified by this subsection. The Revisor of Statutes shall change the term "Articles 3, 4, 5, 6, 7A, 8, 9, 10, 11, 12, 13, 14, 15, 19, and 22 of this Chapter" to "this Subchapter" wherever it appears in G.S. 163A-286 as recodified by this subsection.

**SECTION 20.6.(fff)** The following statutes are recodified:

(1) Article 24 of Chapter 163 of the General Statutes as Article 36 of Chapter 163A of the General Statutes.

(2) Article 25 of Chapter 163 of the General Statutes as Article 37 of Chapter 163A of the General Statutes.

**SECTION 20.6.(ggg)** G.S. 150B-1(c)(16) is repealed.

**SECTION 20.6.(hhh)** The Revisor of Statutes shall change the terms "Chapter 120C of the General Statutes" to "this Subchapter" wherever it appears in Chapter 138A of the General Statutes.

**SECTION 20.6.(iii)** The Revisor of Statutes shall change the terms "Chapter 138A of the General Statutes" to "this Subchapter" wherever it appears in Chapter 120C of the General Statutes.

**SECTION 20.6.(jjj)** The Revisor of Statutes shall change the cite "G.S. 138A-3" to "G.S. 163A-200" wherever it appears in the General Statutes.

**SECTION 20.6.(kkk)** The Revisor of Statutes shall change the terms "Commission," "Secretary of State," and "Secretary" to "State Board" wherever it appears in Chapter 163A of the General Statutes, as enacted by this section.

**SECTION 20.6.(lll)** Except in Article 1 of Chapter 163A of the General Statutes, as enacted by this section, the Revisor of Statutes shall change the term "State Board of Elections" to "State Board" wherever it appears in Chapter 163A of the General Statutes, as enacted by this section.

**SECTION 20.6.(mmm)** The Revisor of Statutes, in recodifying any statute or Article as instructed in this section, shall also renumber and change internal cross-references in those statutes and Articles accordingly.

**SECTION 20.6.(nnn)** Any previous assignment of duties of a quasi-legislative or quasi-judicial nature by the Governor or General Assembly to the agencies or functions transferred by this section shall have continued validity with the transfer under this section. Except as otherwise specifically provided in this section, each enumerated commission, board, or other function of State government transferred to the State Board of Elections and Ethics Enforcement created in this section, is a continuation of the former entity for purposes of succession to all the rights, powers, duties, and obligations of the former. Where the former entities are referred to by law, contract, or other document in their former name, the State Board of Elections and Ethics Enforcement created in this section is charged with exercising the functions of the former named entity.

**SECTION 20.6.(ooo)** No action or proceeding pending on January 1, 2012, brought by or against the State Board of Elections, State Ethics Commission, or the Secretary of State regarding the lobbyist registration and lobbying enforcement of the Secretary of State shall be affected by any provision of this section, but the same may be prosecuted or defended in the name of State Board of Elections and Ethics Enforcement created in this section. In these actions and proceedings, the State Board of Elections and Ethics Enforcement or its Executive Director as appropriate shall be substituted as a party upon proper application to the courts or other administrative or quasi-judicial bodies.

Any business or other matter undertaken or commanded by any State program or office or contract transferred by this section to State Board of Elections and Ethics Enforcement pertaining to or connected with the functions, powers, obligations, and duties set forth herein, which is pending on January 1, 2012, may be conducted and completed by the State Board of Elections and Ethics Enforcement in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the original program, office, or commissioners or directors thereof.

**SECTION 20.6.(ppp)** The consolidation provided for under this section shall not affect any ongoing investigation or audit. Any ongoing hearing or other proceeding before the State Ethics Commission or State Board of Elections shall be transferred to the State Board of Elections and Ethics Enforcement, as created by this section. Prosecutions for offenses or violations committed before January 1, 2012, are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

**SECTION 20.6.(qqq)** Any rule, policy, procedure, or other guidance document not subject to Chapter 150B of the General Statutes adopted by the State Ethics Commission, Secretary of State, or State Board of Elections shall remain in effect until the State Board of Elections and Ethics Enforcement amends or repeals that rule, policy, procedure, or other guidance document. The list of covered boards adopted by the State Ethics Commission under G.S. 138A-10(a)(3) shall continue in effect until amended or repealed by the State Board of Elections and Ethics Enforcement.

**SECTION 20.6(rrr)** Any evaluation of a statement of economic interest issued by the State Ethics Commission pursuant to Article 3 of Chapter 138A of the General Statutes in 2011 shall remain in effect amended or repealed by the State Board of Elections and Ethics Enforcement.

**SECTION 20.6.(sss)** The State Board of Elections and Ethics Enforcement shall report to the Legislative Ethics Committee on or before April 1, 2012, and again on or before February 1, 2013, as to recommendations for statutory changes necessary to further implement this consolidation.

**SECTION 20.6.(ttt)** If any subsection or provision of this section is declared unconstitutional or invalid by the courts, it does not affect the validity of this section as a whole or any part other than the part so declared to be unconstitutional or invalid.

**SECTION 20.6.(uuu)** This section becomes effective January 1, 2012, and applies to elections held on or after that date.

**ELIMINATE FUNDING FOR DEVELOPMENT OF SMART CARDS**

**SECTION 20.7.** Notwithstanding Section 6.19 of S.L. 2010-31, funds in the amount of one million dollars ($1,000,000) shall be transferred from the E-Commerce Reserve Fund to the General Fund to support appropriations made in this act.

## PART XXI. DEPARTMENT OF CULTURAL RESOURCES

**TRANSPORTATION MUSEUM SPECIAL FUND**

**SECTION 21.1.** Article 1 of Chapter 121 of the General Statutes is amended by adding a new section to read:

"**§ 121-7.6. North Carolina Transportation Museum special fund.**

(a) Fund Established. – The North Carolina Transportation Museum Fund is created as a special interestbearing, nonreverting enterprise fund in the Department of Cultural Resources. The Fund shall be used to pay all costs associated with the operation and maintenance of the North Carolina Transportation Museum.

(b) Monies Credited to the Fund. – Notwithstanding Chapter 146 of the General Statutes, all receipts derived from the lease, rental, or other disposition of structures or products of the land, as well as all admissions and fees, gifts, donations, grants, and bequests, shall be credited to the Fund. The Fund shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3.

(c) Emergency Reserve. – The Department of Cultural Resources shall establish, out of existing unobligated funds including lapsed salaries and unobligated special funds, an emergency reserve fund in the amount of three hundred thousand dollars ($300,000). Any use of the emergency reserve will require reimbursement from museum receipts.

(d) Audit. – The Fund shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. The Fund shall reimburse the State Auditor for the cost of any audit."

**ROANOKE ISLAND COMMISSION FUNDING/HISTORIC ROANOKE ISLAND FUND**

**SECTION 21.2.(a)** The Roanoke Island Commission shall receive State funds through the 2011-2012 fiscal year. Beginning with the 2012-2013 fiscal year, the Roanoke Island Commission shall be self-supporting.

**SECTION 21.2.(b)** All funds and assets in the Outer Banks Island Farm Fund are transferred to the Roanoke Island Commission Fund established in G.S. 143B-131.8.

**SECTION 21.2.(c)** G.S. 143B-131.8 is amended by adding the following new subsections:

"(c) Notwithstanding subsection (b) of this section, the Commission may expend and use funds from the principal and from the remaining twenty percent (20%) of the interest generated by the principal of the Roanoke Island Commission Endowment Fund if (i) the Commission has insufficient cash flow to meet its financial obligations as they become due and (ii) those financial obligations are critical to the operation and maintenance of the Commission or the properties operated by the Commission. The Commission shall not use funds from the principal or the remaining twenty percent (20%) of the interest generated by the principal of the Roanoke Island Endowment Fund for capital expenditures.

(d) The Department of Cultural Resources shall pay to the Commission on a monthly basis a pro rata share of the utilities, maintenance, and operating expenses of the Outer Banks History Center, which is located in the facility owned by the Commission. The funds received pursuant to this subsection shall be credited to the Roanoke Island Commission Fund.

(e) The Department of Cultural Resources shall credit to the Roanoke Island Commission Fund all rental proceeds received by the Department from the rental properties located near the Outer Banks Island Farm."

**SECTION 21.2.(d)** G.S. 143B-131.2(b)(1) reads as rewritten:

"(1) To advise the Secretary of Transportation and adopt rules on matters pertaining to, affecting, and encouraging restoration, preservation, and enhancement of the appearance, maintenance, and aesthetic quality of U.S. Highway 64/264 and the U.S. 64/264 Bypass travel corridor on Roanoke Island and the grounds on Roanoke Island Festival Park. However, the local government that has jurisdiction over the affected portion of the travel corridor shall process the applications for and issue the certificates of appropriateness and shall be responsible for the enforcement of those certificates and any rules adopted pursuant to this subdivision that apply to the portion of the travel corridor within the jurisdiction of the local government. No reimbursement shall be made by the Commission to the local government for the processing of applications or issuance of certificates of appropriateness, or the enforcement of those certificates or the rules."

**SECTION 21.2.(e)** G.S. 143B-131.2(b)(10) reads as rewritten:

"(10) ~~To establish and maintain a separate fund composed of moneys which may come into its hands from~~ To accept gifts, donations, grants, or bequests, which funds will be used by the Commission for purposes of carrying out its duties and purposes herein set forth. The Commission may ~~also~~ establish a reserve fund to be maintained and used for contingencies and emergencies. ~~Funds appropriated to the Commission may be transferred to the Friends of Elizabeth II, Inc., a private, nonprofit corporation.~~ The Friends of Elizabeth II, Inc., shall use the balance of any unencumbered funds that were transferred to it ~~to carry out the purposes of this Part.~~ pursuant to this subdivision only for expenses of the Commission or the properties operated by the Commission that are identified as operating or for maintenance costs by the Commission and that are requested by the Commission."

**SECTION 21.2.(f)** Effective July 1, 2012, all funds held by the Roanoke Island Commission, including all balances credited to the Roanoke Island Commission Endowment Fund, shall be transferred to the Historic Roanoke Island Fund established in G.S. 143B-131.8A.

**SECTION 21.2.(g)** Effective July 1, 2012, G.S. 143B-131.1 reads as rewritten:

"**§ 143B-131.1. Commission established.**

There is established the Roanoke Island Commission. The Commission shall be an ~~independent~~ independent, self-supporting commission, but shall be located within the Department of Cultural Resources for historic resource management, organizational, and budgetary purposes."

**SECTION 21.2.(h)** Effective July 1, 2012, G.S. 143B-131.2(b)(14) reads as rewritten:

"(14) To administer the ~~Roanoke Island Commission Fund and the Roanoke Island Commission Endowment Fund as provided in G.S. 143B-131.8.~~ Historic Roanoke Island Fund as provided in G.S. 143B-131.8A."

**SECTION 21.2.(i)** Effective July 1, 2012, G.S. 143B-131.8 is repealed.

**SECTION 21.2.(j)** Effective July 1, 2012, Part 27A of Article 2 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-131.8A. Historic Roanoke Island Fund.**

(a) The Historic Roanoke Island Fund is established as a nonreverting enterprise fund and shall be administered by the Roanoke Island Commission. All operating revenues generated by the Roanoke Island Commission, including revenues collected from any property operated by the Roanoke Island Commission, together with all gifts, grants, donations, or other financial assets of whatever kind received or held by the Roanoke Island Commission shall be

credited to the Historic Roanoke Island Fund and shall be used only (i) for the expenses of operating and maintaining the Roanoke Island Commission and the properties managed by the Roanoke Island Commission, (ii) to carry out any of the other duties and purposes set out by this Part, or (iii) for capital expenditures for the properties operated by the Commission.

(b) The Department of Cultural Resources shall pay to the Commission on a monthly basis a pro rata share of the utilities, maintenance, and operating expenses of the Outer Banks History Center, which is located in the facility owned by the Commission. The funds received pursuant to this subsection shall be credited to the Historic Roanoke Island Fund.

(c) The Department of Cultural Resources shall credit to the Historic Roanoke Island Fund all rental proceeds received by the Department from the rental properties located near the Outer Banks Island Farm."

## PART XXII. GENERAL ASSEMBLY

### PED STUDYING ADMINISTRATION OF STATE ATTRACTIONS

**SECTION 22.1.(a)** The Program Evaluation Division shall study and review State operations considered attractions in the State, such as State Historic Sites, Museums, State Parks, Aquariums, and the North Carolina Zoo, and recommend whether administration of such attractions can be consolidated in one Department or administrative unit. In conducting its study, the Program Evaluation Division shall review all sources of revenue generated by these attractions, including admission fees, donations, and concession sales, and shall review daily visitation trends for these attractions to determine optimal operating schedules.

**SECTION 22.1.(b)** The Program Evaluation Division shall report its findings by March 30, 2012, to the full chairs of the House of Representatives and Senate Appropriations Committees, the chairs of the House of Representatives Appropriations Subcommittee on General Government, the chairs of the Senate Appropriations Committee on General Government and Information Technology, and the Fiscal Research Division.

### REVISOR OF STATUTES

**SECTION 22.2.** Article 2 of Chapter 114 of the General Statutes is recodified as Article 7D of Chapter 120 of the General Statutes to be entitled "Codification of Statutes" and as recodified, reads as rewritten:

"Article 7D.

"Codification of Statutes.

"**§ 120-36.21. ~~Creation of Division; powers and duties.~~Codification of Statutes.**

The ~~Attorney General shall set up in the Department of Justice a division to be designated as the Division of Legislative Drafting and Codification of Statutes. There shall be assigned to this Division by the Attorney General~~ Legislative Services Commission shall assign to its staff duties as follows:

(1) To prepare bills to be presented to the General Assembly ~~at the request of the Governor, and the officials of the State and departments thereof, and members of the General Assembly, and to advise with said officials in connection therewith, and to advise with and assist counties, cities, and towns in the drafting of legislation to be submitted to the General Assembly.~~ as provided by G.S. 120-31(9).

(2) To supervise the recodification of all the statute law of North Carolina and supervise the keeping of such recodifications current by including therein all laws hereafter enacted by supplements thereto issued periodically, all of which recodifications and supplements shall be appropriately annotated.

(3) In order that the laws of North Carolina, as set out in the General Statutes of North Carolina, may be made and kept as simple, as clear, as concise and as complete as possible, and in order that the amount of construction and interpretation of the statutes required of the courts may be reduced to a minimum, ~~it shall also be the duty of the Division of Legislative Drafting and Codification of Statutes~~ to establish and maintain a system of continuous statute research and correction. To that end the ~~Division~~ staff shall:

a. Make a systematic study of the general statutes of the State, as set out in the General Statutes and as hereafter enacted by the General Assembly, for the purpose of ascertaining what ambiguities,

conflicts, duplications and other imperfections of form and expression exist therein and how these defects may be corrected.

b. Consider such suggestions as may be submitted ~~to the Division~~ with respect to the existence of such defects and the proper correction thereof.

c. Prepare for submission to the General Assembly from time to time bills to correct such defects in the statutes as its research discloses.

**"§ 120-36.22. Revisor of Statutes.**

The member of the staff of the ~~Attorney General~~ Legislative Services Commission who is assigned to perform the duties prescribed by ~~G.S. 114-9(3)~~ G.S. 120-36.21(3) shall be known as the Revisor of Statutes.~~Statutes and he shall be subject to all the provisions of Chapter 126 of the General Statutes relating to the State Personnel System.~~"

## PART XXIII. DEPARTMENT OF INSURANCE

### PERMISSABLE USE OF INSURANCE REGULATORY FUND

**SECTION 23.1.** The Department of Insurance shall not expend funds from the Insurance Regulatory Fund created under G.S. 58-6-25 for any purpose other than to reimburse the General Fund for appropriations from that fund to the Department.

### NO BUDGET REDUCTION FOR CERTAIN STATE FIRE PROTECTION GRANT FUND RECIPIENTS

**SECTION 23.2.** Notwithstanding any other provision of this act, there shall be no reduction in funding under G.S. 58-85A-1 during the 2011-2013 fiscal biennium for local fire districts and political subdivisions of the State that receive grant funding of one thousand dollars ($1,000) or less under that statute.

## PART XXIV. OFFICE OF ADMINISTRATIVE HEARINGS

### ACCESS TO REGISTER AND CODE

**SECTION 24.1.** G.S. 150B-21.24(a) reads as rewritten:

"(a) Register. – The Codifier of Rules shall make available the North Carolina Register on the Internet at no charge. ~~Upon request the Codifier shall provide a free copy of the current volume of the Register to any person who receives a free copy of the North Carolina Administrative Code or any member of the General Assembly.~~"

## PART XXV. OFFICE OF STATE BUDGET AND MANAGEMENT

### TRANSFER STATE FIRE PROTECTION GRANT FUND

**SECTION 25.1.** Article 85A of Chapter 58 of the General Statutes reads as rewritten:

"Article 85A.

"State Fire Protection Grant Fund.

**"§ 58-85A-1. Creation of Fund; allocation to local fire districts and political subdivisions of the State.**

(a) There is created in the ~~Office of State Budget and Management~~Department of Insurance the State Fire Protection Grant Fund. The purpose of the Fund is to compensate local fire districts and political subdivisions of the State for providing local fire protection to State-owned buildings and their contents.

(b) The ~~Office of State Budget and Management~~Department of Insurance shall develop and implement an equitable and uniform statewide method for distributing any funds to the State's local fire districts and political subdivisions.

~~Upon the request of the Director of the Budget, the Department of Insurance shall provide the Office of State Budget and Management all information necessary to develop and implement the formula.~~

(c) It is the intent of the General Assembly to appropriate annually to the State Fire Protection Grant Fund up to four million one hundred eighty thousand dollars ($4,180,000) from the General Fund, one hundred fifty-eight thousand dollars ($158,000) from the Highway Fund, and one million three hundred forty-five thousand dollars ($1,345,000) from University

of North Carolina receipts. Funds received from the General Fund shall be allocated only for providing local fire protection for State-owned property supported by the General Fund; funds received from the Highway Fund shall be allocated only for providing local fire protection for State-owned property supported by the Highway Fund; and funds received from University of North Carolina receipts shall be allocated only for providing local fire protection for State-owned property supported by University of North Carolina receipts."

**NC SYMPHONY FUNDING**

**SECTION 25.2.(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 nonrecurring funds for the 2011-2012 fiscal year shall be allocated to the North Carolina Symphony in accordance with this section.

**SECTION 25.2.(b)** It is the intent of the General Assembly that the NC Symphony achieve its goal of raising the sum of eight million dollars ($8,000,000) in non-State funding to support the operations of the Symphony. To that end, upon demonstrating to the Office of State Budget and Management that the NC Symphony has reached fund-raising targets in the amounts set forth in this subsection, the NC 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 NC 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 NC Symphony shall receive the 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 NC Symphony shall receive the final sum of five hundred thousand dollars ($500,000) for the 2011-2012 fiscal year.

**SECTION 25.2.(c)** Funds allocated pursuant to this section are in addition to any other funds allocated to the NC Symphony in this act.

## PART XXVI. STATE BOARD OF ELECTIONS

**NO EXPENDITURE OF HAVA TITLE II FUNDS FOR STATE FY 2011-2012**

**SECTION 26.1.** The State Board of Election shall not expend any Help America Vote Funds (HAVA) Title II Funds for the 2011-2012 fiscal year and, unless prohibited by federal law, shall retain those funds until Maintenance of Effort funds are appropriated.

**ALLOWING COUNTY BOARDS OF ELECTION TO EMPLOY PERSONNEL TO MAINTAIN VOTING SYSTEMS**

**SECTION 26.3.(a)** G.S. 163-165.9 reads as rewritten:

"**§ 163-165.9. Voting systems: powers and duties of county board of elections.**

(a) Before approving the adoption and acquisition of any voting system by the board of county commissioners, the county board of elections shall do all of the following:

(1) Recommend to the board of county commissioners which type of voting system should be acquired by the county.

(2) Witness a demonstration, in that county or at a site designated by the State Board of Elections, of the type of voting system to be recommended and also witness a demonstration of at least one other type of voting system certified by the State Board of Elections.

(3) Test, during an election, the proposed voting system in at least one precinct in the county where the voting system would be used if adopted.

(b) After the acquisition of any voting system, the county board of elections shall comply with any requirements of the State Board of Elections regarding training and support of the voting system by completing all of the following:

(1) The county board of elections shall comply with all specifications of its voting system vendor for ballot printers. The county board of elections is authorized to contract with noncertified ballot printing vendors, so long as

the noncertified ballot printing vendor meets all specifications and all quality assurance requirements as set by the State Board of Elections.

(2) The county board of elections shall annually maintain software license and maintenance agreements necessary to maintain the warranty of its voting system. A county board of elections may employ qualified personnel to maintain a voting system in lieu of entering into maintenance agreements necessary to maintain the warranty of its voting system. The State Board of Elections ~~shall not~~is not required to provide routine maintenance to any county board of elections that does not maintain the warranty of its voting system. If the State Board of Elections provides any maintenance to a county that has not maintained the warranty of its voting system, the county shall reimburse the State for the cost.

(3) The county board of elections shall not replace any voting system, or any portion thereof, without approval of the State Board of Elections.

(4) The county board of elections may have its voting system repaired pursuant to its maintenance agreement but shall notify the State Board of Elections at the time of every repair, according to guidelines that shall be provided by the State Board of Elections."

**SECTION 26.3.(b)** This section becomes effective July 1, 2011.

## PART XXVI-A. STATE CONTROLLER

### OVERPAYMENTS AUDIT

**SECTION 26A.1.(a)** During the 2011-2013 biennium, receipts generated by the collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be deposited in Special Reserve Account 24172.

**SECTION 26A.1.(b)** For each year of the 2011-2013 biennium, five hundred thousand dollars ($500,000) of the funds transferred from Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or e-commerce costs.

**SECTION 26A.1.(c)** All funds available in Special Reserve Account 24172 on July 1 of each year of the 2011-2013 biennium are transferred to the General Fund on that date.

**SECTION 26A.1.(d)** Any unobligated funds in Special Reserve Account 24172 that are realized above the allowance in subsection (b) of this section are subject to appropriation by the General Assembly.

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

## PART XXVII. DEPARTMENT OF THE STATE TREASURER

### LOCAL GOVERNMENT UNIT POSITIONS

**SECTION 27.1.(a)** G.S. 105-501(b) reads as rewritten:

"(b) Deductions. – The costs incurred by the State to provide the functions listed in this subsection that support local governments are deductible from the collections to be allocated each month for distribution.

(1) The Department's cost of the following for the preceding month must be deducted and credited to the Department:

a. ~~Performing the duties imposed by Article 15 of this Chapter.~~The Local Government Division.

b. The Property Tax Commission.

(1a) The Department of State Treasurer's costs for personnel and operations of the Local Government Commission.

(2) One-twelfth of the costs of the following for the preceding fiscal year must be deducted and credited to the General Fund:

a. The School of Government at the University of North Carolina at Chapel Hill in operating a training program in property tax appraisal and assessment.
b. The personnel and operations provided by the Department of State Treasurer for the Local Government Commission.
c. Seventy percent (70%) of the expenses of the Department of Revenue in performing the duties imposed by Article 2D of this Chapter."

**SECTION 27.1.(b)** G.S. 105-501(b), as rewritten by subsection (a) of this section, reads as rewritten:

"(b) Deductions. – The costs incurred by the State to provide the functions listed in this subsection that support local governments are deductible from the collections to be allocated each month for distribution.

(1) The Department's cost of the following for the preceding month must be deducted and credited to the Department:
a. The Local Government Division.
b. The Property Tax Commission.

(1a) The Department of State Treasurer's costs for personnel and operations of the Local Government Commission.

(2) One-twelfth of the costs of the following for the preceding fiscal year must be deducted and credited to the General Fund:
a. The School of Government at the University of North Carolina at Chapel Hill in operating a training program in property tax appraisal and assessment.
~~b. The personnel and operations provided by the Department of State Treasurer for the Local Government Commission.~~
c. Seventy percent (70%) of the expenses of the Department of Revenue in performing the duties imposed by Article 2D of this Chapter."

**SECTION 27.1.(c)** Subsection (b) of this section becomes effective July 1, 2012.

## PART XXVIII. DEPARTMENT OF TRANSPORTATION

### CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATION

**SECTION 28.1.(a)** The General Assembly authorizes and certifies anticipated revenues for the Highway Fund as follows:

| | |
|---|---|
| For Fiscal Year 2013-2014 | $2,125.4 million |
| For Fiscal Year 2014-2015 | $2,238.0 million |
| For Fiscal Year 2015-2016 | $2,352.3 million |
| For Fiscal Year 2016-2017 | $2,470.9 million |

**SECTION 28.1.(b)** The General Assembly authorizes and certifies anticipated revenues for the Highway Trust Fund as follows:

| | |
|---|---|
| For Fiscal Year 2013-2014 | $1,084.0 million |
| For Fiscal Year 2014-2015 | $1,169.8 million |
| For Fiscal Year 2015-2016 | $1,232.6 million |
| For Fiscal Year 2016-2017 | $1,256.7 million |

### CHANGES TO HIGHWAY FUND CERTIFIED BUDGET TO INCREASE TRANSPARENCY

**SECTION 28.2.** Notwithstanding G.S. 143C-6-4(b), the Office of State Budget and Management, in consultation with the Department of Transportation, the Office of the State Controller, and the Fiscal Research Division, shall execute changes to the Department of Transportation's Highway Fund (Budget Code 84210) 2012-2013 Fiscal Year Certified Budget to increase transparency. The Adjusted 2012-2013 Fiscal Year Certified Budget for Budget Code 84210 shall include object detail using the North Carolina Accounting System Uniform Chart of Accounts prescribed by the Office of the State Controller to provide a more detailed accounting of the proposed budgets and receipts and actual expenditures and revenue collections. This includes, but is not limited to, applying object detail at the four-digit level for all acounts to full-time and part-time positions, to operating expenditures and receipts, and to

intrafund transfers. In addition, work order positions shall be budgeted within existing fund codes. These readjustments to the enacted budget are for the sole purpose of correctly aligning authorized positions and associated operating costs with the appropriate purposes and definitions as defined in G.S. 143C-1-1. The Office of State Budget and Management shall change the certified budget to reflect these adjustments only after reporting the proposed adjustments to the Chairs of the Senate Appropriations Committee on Department of Transportation and the Chairs of the House Appropriations Subcommittee on Transportation and to the Fiscal Research Division no later than March 1, 2012. It is the intent of the General Assembly that these changes in the certified budget for Budget Code 84210 shall begin with the 2012-2013 fiscal year and shall be used in subsequent fiscal years.

**REMOVE PILOT DESIGNATION FOR PUBLIC-PRIVATE PARTNERSHIPS**

**SECTION 28.3.** G.S. 136-28.1 reads as rewritten:

**"§ 136-28.1. Letting of contracts to bidders after advertisement; exceptions.**

...

(l) The Department of Transportation may enter into ~~as many as two pilot~~ contracts for ~~public-private~~ public-private participation in providing litter removal from State right-of-way. Selection of firms to perform this work shall be made using a best value procurement process and shall be without regard to other provisions of law regarding the Adopt-A-Highway Program administered by the Department. Acknowledgement of sponsors may be indicated by appropriate signs that shall be owned by the Department of Transportation. The size, style, specifications, and content of the signs shall be determined in the sole discretion of the Department of Transportation. The Department of Transportation may issue ~~rules~~ guidelines, rules, and policies necessary to ~~implement~~ administer this ~~section.~~ subsection.

(m) The Department of Transportation may enter into ~~as many as two pilot~~ contracts for public-private participation ~~in providing real-time traveler information~~ at State-owned rest areas. Selection of firms ~~to perform this work~~ shall be made using a best value procurement process. Recognition of sponsors in the program may be indicated by appropriate acknowledgment for any services provided. The size, style, specifications, and content of the acknowledgment shall be determined in the sole discretion of the Department. Revenues generated pursuant to a contract initiated under this subsection shall be shared with Department of Transportation at a predetermined percentage or rate, and shall be earmarked by the Department to maintain the State owned rest areas from which the revenues are generated. The Department of Transportation may issue guidelines, rules, and policies necessary to administer ~~a pilot program initiated under~~ this subsection."

**REMOVE CAP ON DESIGN-BUILD PROJECTS**

**SECTION 28.4.** G.S. 136-28.11(a) reads as rewritten:

"(a) Design-Build Contracts Authorized. – Notwithstanding any other provision of law, the Board of Transportation may award contracts ~~for up to 25 projects~~ each fiscal year for construction of transportation projects on a design-build basis."

**FLEXIBILITY TO SEEK LIMITED SPONSORSHIPS**

**SECTION 28.5.(a)** G.S. 66-58 reads as rewritten:

**"§ 66-58. Sale of merchandise or services by governmental units.**

...

(b) The provisions of subsection (a) of this section shall not apply to:

...

(20) The Department of Transportation, or any ~~nonprofit~~ lessee of or other party contracting with the Department, for the sale of ~~books, crafts, gifts, and other tourism-related items at visitor centers~~ travel-related goods and services at welcome centers, visitor centers, rest areas, and administrative facilities owned by the Department.

...

(c) The provisions of subsection (a) shall not prohibit:

...

(20) The Department of Transportation or any lessee of or contracting party with the Department from conducting activities related to privatization and operation of welcome centers, visitor centers, rest areas, and administrative

facilities or from entering into agreements for sponsorship of agency services.

...."

**SECTION 28.5.(b)** G.S. 136-18 reads as rewritten:

"**§ 136-18. Powers of Department of Transportation.**

The said Department of Transportation is vested with the following powers:

...

(9) To employ appropriate means for properly selecting, planting and protecting trees, shrubs, vines, grasses or legumes in the highway right-of-way in the promotion of erosion control, landscaping and general protection of said highways; to acquire by gift or otherwise land for and to construct, operate and maintain roadside parks, picnic areas, picnic tables, scenic overlooks and other appropriate turnouts for the safety and convenience of highway users; and to cooperate with municipal or county authorities, federal agencies, civic bodies and individuals in the furtherance of those objectives. None of the roadside parks, picnic areas, picnic tables, scenic overlooks or other turnouts, or any part of the highway right-of-way shall be used for commercial purposes except (i) for materials displayed in welcome centers in accordance with G.S. 136-89.56, and (ii) for vending machines permitted by the Department of Transportation and placed by the Division of Services for the Blind, Department of Health and Human Services, as the State licensing agency designated pursuant to Section 2(a)(5) of the Randolph-Sheppard Act (20 USC 107a(a)(5)). The Department of Transportation shall regulate the placing of the vending machines in highway rest areas and shall regulate the articles to be dispensed. Every other use or attempted use of any of these areas for commercial purposes shall constitute a Class 1 misdemeanor and each day's use shall constitute a separate offense. Notwithstanding the provisions of this section, the Department of Transportation is authorized to contract for sponsorship of ferry welcome centers, Incident Management Assistance Patrols, welcome centers, visitor centers, and rest areas and to allow the contracting party to use the right-of-way for commercial purposes for the sale of travel-related goods at services in accordance with G.S. 136-89.56."

...

(39) To enter into partnership agreements with private entities, and authorized political subdivisions to finance, by tolls, contracts, and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating transportation infrastructure in this State, and to plan, design, develop, acquire, construct, equip, maintain, and operate transportation infrastructure in this State. The Department is also authorized to enter into partnership agreements with private entities and authorized political subdivisions to finance the cost of acquiring, constructing, equipping, maintaining, and operating facilities, including ferry welcome centers, Incident Management Assistance Patrols, welcome centers, visitor centers, rest areas, and administrative offices. The Department is further authorized to enter into partnership agreements with private entities and authorized political subdivisions to finance the cost of providing sponsorship for State services. An agreement entered into under this subdivision requires the concurrence of the Board of Transportation. The Department shall report to the Chairs of the Joint Legislative Transportation Oversight Committee, the Chairs of the House of Representatives Appropriations Subcommittee on Transportation, and the Chairs of the Senate Appropriations Committee on the Department of Transportation, at the same time it notifies the Board of Transportation of any proposed agreement under this subdivision. Any contracts for construction of highways, roads, streets, and bridges which are awarded pursuant to an agreement entered into under this section shall comply with the competitive bidding requirements of Article 2 of this Chapter.

...."

**SECTION 28.5.(c)** G.S. 136-89.56 reads as rewritten:

"**§ 136-89.56. Commercial enterprises.**

No commercial enterprises or activities shall be authorized or conducted by the Department of Transportation, any other State agency, or the governing body of any city or town, within or on the property acquired for or designated as a controlled-access facility, as defined in this Article, except for:

(1) ~~Materials displayed~~ The sale of goods and services by the Department, a lessee, or other service provider or contracting party at welcome ~~centers which~~ centers, visitor centers, rest areas, and other administrative offices shall be directly related to travel, accommodations, tourist-related activities, tourist-related services, and attractions. The Department of Transportation shall issue rules and may adopt guidelines and policies regulating the display and sale of these materials. These materials may contain advertisements for real estate; and

...."

**SMALL CONSTRUCTION AND CONTINGENCY FUNDS**

**SECTION 28.6.** Of the funds appropriated in this act to the Department of Transportation:

(1) Seven million dollars ($7,000,000) shall be allocated in each fiscal year for small construction projects recommended by the State Highway Administrator in consultation with the Chief Operating Officer and approved by the Secretary of the Department of Transportation. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for small construction projects.

(2) Twelve million dollars ($12,000,000) shall be allocated statewide in each fiscal year for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects, including pedestrian walkways that enhance highway safety. Projects funded pursuant to this subdivision shall be approved by the Secretary of Transportation.

None of these funds used for rural secondary road construction are subject to the county allocation formulas in G.S. 136-44.5(b) and (c).

These funds are not subject to G.S. 136-44.7.

The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to construction. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

**ADJUST SECONDARY ROAD CONSTRUCTION AND SECONDARY ROAD MAINTENANCE**

**SECTION 28.7.(a)** Notwithstanding G.S. 136-44.2A, secondary road construction and secondary road maintenance funds from the Highway Fund shall not increase over the amounts allocated in the fiscal year 2011-2012 and fiscal year 2012-2013 base budgets.

**SECTION 28.7.(b)** Notwithstanding G.S. 136-182, secondary road construction and secondary road maintenance funds from the Highway Trust Fund shall not increase over the amounts allocated in the fiscal year 2011-2012 and fiscal year 2012-2013 base budgets.

**SYSTEM PRESERVATION FUNDS PREFERENCE FOR DEFICIENT BRIDGES**

**SECTION 28.8.** The funds allocated to the system preservation program (Budget Code 84240-7839) for fiscal years 2011-2012 and 2012-2013 shall be used for bridge improvements on structurally deficient bridges.

**INCREASE DOT PRIVATIZATION**

**SECTION 28.9.** The Department of Transportation shall seek to increase the use of contracts to further privatize design and engineering work where practical and economical. In doing so, the Department of Transportation shall do the following:

(1) Identify State-funded professional service contracts of two hundred fifty thousand dollars ($250,000) or less that are likely to attract increased participation by Small Professional Services Firms and then direct the solicitation of applicable contracts to those firms.
(2) Expand the use of multiple contract awards for maintenance and repair projects.
(3) Increase the outsourcing of preliminary engineering projects to fifty percent (50%) of the total funds in the annual work plan.

**STATE STREET-AID TO MUNICIPALITIES (POWELL BILL) ADJUSTMENTS**

**SECTION 28.10.(a)** G.S. 136-41.1(a) reads as rewritten:

"(a) There is annually appropriated out of the State Highway Fund a sum equal to the net amount after refunds that was produced during the fiscal year by a one and three-fourths cents (1 3/4¢) tax on each gallon of motor fuel taxed under Article 36C of Chapter 105 of the General Statutes and on the equivalent amount of alternative fuel taxed under Article 36D of that Chapter. ~~The~~ One-half of the amount appropriated shall be allocated in cash on or before October 1 of each year to the cities and towns of the State in accordance with this section. The second one-half of the amount appropriated shall be allocated in cash on or before January 1 of each year to the cities and towns of the State in accordance with this section. In addition, as provided in G.S. 136-176(b)(3), revenue is allocated and appropriated from the Highway Trust Fund to the cities and towns of this State to be used for the same purposes and distributed in the same manner as the revenue appropriated to them under this section from the Highway Fund. Like the appropriation from the Highway Fund, the appropriation from the Highway Trust Fund shall be based on revenue collected during the fiscal year preceding the date the distribution is made.

...."

**SECTION 28.10.(b)** Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-41.2B. Eligibility for funds; municipalities with no road miles ineligible.**

No municipality shall be eligible to receive funds under G.S. 136-41.1 unless the municipality maintains public streets that (i) are within its jurisdiction and (ii) do not form a part of the State highway system."

**SECTION 28.10.(c)** Unexpended and unencumbered funds previously allocated to municipalities made ineligible to receive funds by subsection (b) of this section shall be reallocated to eligible municipalities in accordance with G.S. 136-41.1.

**SECTION 28.10.(d)** G.S. 136-41.3 reads as rewritten:

"**§ 136-41.3. Use of funds; records and annual statement; excess accumulation of funds; contracts for maintenance, etc., of streets.**

...

No funds allocated to municipalities pursuant to G.S. 136-41.1 and 136-41.2 shall be permitted to accumulate for a period greater than permitted by this section. Interest on accumulated funds shall be used only for the purposes permitted by the provisions of G.S. 136-41.3. ~~Any~~ Except as otherwise provided in this section, any municipality having accumulated an amount greater than the sum of the past 10 allocations made, shall have an amount equal to such excess deducted from the next allocation after receipt of the report required by this section. Such deductions shall be carried over and added to the amount to be allocated to municipalities for the following year. Notwithstanding the other provisions of this section, the Department shall adopt a policy to allow small municipalities to apply to the Department to be allowed to accumulate up to the sum of the past 20 allocations if a municipality's allocations are so small that the sum of the past 10 allocations would not be sufficient to accomplish the purposes of this section.

...."

**STATE AID TO RAILROADS TRANSPARENCY**

**SECTION 28.12.** G.S. 136-44.20(d) is repealed.

**PROGRAM EVALUATION DIVISION TO STUDY NORTH CAROLINA RAILROAD**

**SECTION 28.12A.** The Program Evaluation Division of the General Assembly shall conduct a comprehensive evaluation of the North Carolina Railroad Company, a North

Carolina corporation of which the State is the sole shareholder and which is a discretely reported component unit of the State as defined by the Governmental Accounting Standards Board. The evaluation shall address, at a minimum, the following issues:

(1) Whether the corporation is adhering to its stated corporate mission of maximizing the value of the corporation for the people of the State.
(2) What economic development benefits have been provided by the corporation and for what costs.
(3) An evaluation of the use of available cash by the corporation, including the purchase of real property used for investment purposes rather than paying dividends to the State.
(4) The approximate value of the corporation's assets, based on a market valuation rather than historic or book value of assets.
(5) The approximate value of the entire corporation as a going concern.
(6) The effectiveness of the provisions of Chapter 124 of the General Statutes to allow the State to exercise its shareholder rights and to provide effective shareholder oversight of the corporation.
(7) Whether the ownership of the corporation provides the State a reasonable return on its investment, attempting to consider both the tangible and intangible value provided by the corporation.
(8) Whether the corporation should be sold, transferred under the jurisdiction of the Department of Transportation or another State agency, or maintain its corporate structure.
(9) Whether the General Assembly should consider the possibility of repealing the corporate charter of the corporation by a special act, as allowed under Section 1 of Article VIII of the North Carolina Constitution.

For the purposes of this evaluation, the terms "State agency" or "agency" as used under Article 7C of Chapter 120 of the General Statutes shall include the North Carolina Railroad Company.

For the purposes of this evaluation, the Program Evaluation Division is hereby granted authority to exercise the State's shareholder right to inspect the corporate books and records of the North Carolina Railroad Company on behalf of the State.

The Program Evaluation Division may hire consultants to aid it in its evaluation, including experts in appraisal and valuation.

The Program Evaluation Division shall report the results of its study to the Joint Legislative Program Evaluation Oversight Committee and the Joint Legislative Transportation Oversight Committee no later than May 1, 2012.

**REPORT, CONSULTATION, AND APPROVAL OF RAIL PROJECTS**

**SECTION 28.15.** G.S. 136-44.36 reads as rewritten:

"**§ 136-44.36. Department of Transportation designated as agency to administer federal and State railroad revitalization programs.**

(a) The General Assembly hereby designates the Department of Transportation as the agency of the State of North Carolina responsible for administering all State and federal railroad revitalization programs. The Department of Transportation is authorized to develop, and the Board of Transportation is authorized to adopt, a State railroad plan, and the Department of Transportation is authorized to do all things necessary under applicable State and federal legislation to properly administer State and federal railroad revitalization programs within the State. Such authority shall include, but shall not be limited to, the power to receive federal funds and distribute and expend federal and State funds for rail programs designed to cover the costs of acquiring, by purchase, lease or other manner as the department considers appropriate, a railroad line or other rail property to maintain existing or to provide future rail service; the costs of rehabilitating and improving rail property on railroad lines to the extent necessary to permit safe, adequate and efficient rail service on such lines; and the costs of constructing rail or rail related facilities for the purpose of improving the quality, efficiency and safety of rail service. The Department shall also have the authority to preserve railroad corridors for future railroad use and interim compatible uses and may lease such corridors for interim compatible uses. Such authority shall also include the power to receive and administer federal financial assistance without State financial participation to railroad companies to cover the costs of local rail service continuation payments, of rail line rehabilitation, and of rail line

construction as listed above. This Article shall not be construed to grant to the department the power or authority to operate directly any rail line or rail facilities.

(b) Notwithstanding subsection (a) of this section, the acceptance of federal funds by the Department of Transportation for rail programs shall be subject to the following:

(1) Report. – For any project under subsection (a) of this section, the Department of Transportation shall report the project details, including the amounts of federal funds and any State matching funds, as well as the expected annual maintenance and operational costs to the State of the project for the next 25 years, to the Joint Legislative Transportation Oversight Committee if the General Assembly is not in session, or to the House Appropriations Subcommittee on Transportation and the Senate Committee on Appropriations on Department of Transportation if the General Assembly is in session.

(2) Consultation. – If either the amount of State matching funds required by the federal grant or the amount of future annual maintenance and operational costs of the project are reasonably expected to exceed three million dollars ($3,000,000), then the Department shall not accept the federal funds prior to consultation with the Joint Legislative Transportation Oversight Committee if the General Assembly is not in session, or with the House Appropriations Subcommittee on Transportation and the Senate Committee on Appropriations on Department of Transportation if the General Assembly is in session. Failure of the Joint Legislative Transportation Oversight Committee, the House Appropriations Subcommittee on Transportation, or the Senate Committee on Appropriations on Department of Transportation to hold a meeting with the Department of Transportation within 60 days of a written request for a meeting from the Department of Transportation shall be deemed a waiver of consultation by the committee.

(3) Approval. – If either the amount of State matching funds required by the federal grant or the amount of future annual maintenance and operational costs of the project are reasonably expected to exceed twenty million dollars ($20,000,000), then the Department's acceptance of funds shall be subject to approval of the project by an act of the General Assembly. If 30 days have passed since consultation or the expiration of the consultation period under subdivision (2) of this subsection, then the inaction of the General Assembly, including the lack of an extra session to address the project, shall be deemed an approval of the project, and the Department may accept the funds without an act of the General Assembly.

For purposes of this subsection, the terms "State matching funds" and "annual maintenance and operational costs to the State" shall not include funds that may pass through the Department of Transportation but that originally came from a non-State source."

**PROHIBIT RAIL DIVISION FROM PROVIDING CONVENIENCE ITEMS FREE OF CHARGE ON ALL PASSENGER RAIL SERVICE**

**SECTION 28.16.** The Department of Transportation, Rail Division, shall not provide convenience items to passengers free of charge unless the items are donated to the State. These items include bottled or canned drink products, excluding water, newspapers, or other items of convenience. The Department of Transportation may charge a nominal fee for such items through vending machines or through other mechanisms.

**STUDY MANNS HARBOR REPAIR AND PAINT SHOP**

**SECTION 28.16A.** The Joint Legislative Transportation Oversight Committee shall study the issue of privatizing the ferry repair facilities and paint shop at Manns Harbor. As part of its analysis, the Joint Legislative Transportation Oversight Committee shall consider the cost of performing ferry repairs through a private corporation, potential operational savings from closing the Manns Harbor repair and paint shop facilities, the potential sale or lease price of the Manns Harbor facility, and the overall annual savings or costs from privatizing ferry repairs and paint operations. In order to conduct its study, the Joint Legislative Transportation Oversight Committee may employ outside consultants. The Joint Legislative Transportation

Oversight Committee shall submit its report to the General Assembly no later than May 25, 2012.

**ELIMINATE AERONAUTICS COUNCIL, BICYCLE COMMITTEE, AND RAIL COUNCIL**

**SECTION 28.17.(a)** The Aeronautics Council of the Department of Transportation is eliminated. G.S. 143B-356 and G.S. 143B-357 are repealed.

**SECTION 28.17.(b)** The North Carolina Bicycle Committee within the Department of Transportation is eliminated. G.S. 136-71.13 is repealed.

**SECTION 28.17.(c)** The North Carolina Rail Council of the Department of Transportation is eliminated. Part 9 of Article 8 of Chapter 143B of the General Statutes is repealed.

**AVIATION DIVISION APPROPRIATION**

**SECTION 28.17A.** Notwithstanding G.S. 136-16.4, the continuing aviation appropriation from the Highway Fund to the Department of Transportation shall be reduced as provided in this act.

**FLEXIBLE USE OF FUNDS TO LEVERAGE FEDERAL FUNDS FOR RURAL PUBLIC TRANSPORTATION**

**SECTION 28.18.** In order to ensure maximum receipts of funding and to facilitate the use of funds available to the Department, the Department of Transportation, Public Transportation Division, shall have the flexibility to transfer funding from the consolidated capital program of its rural funding programs for vehicles, technology, and facilities to the operating programs, based on the Department's ability to leverage all additional federal funds to meet the capital needs of rural transportation systems. This section applies only to fiscal years 2011-2012 and 2012-2013.

**MAXIMIZE LEVERAGE OF FEDERAL PUBLIC TRANSPORTATION OPERATING AND CAPITAL FUNDS FOR LOCAL PUBLIC TRANSPORTATION SYSTEMS**

**SECTION 28.19.** The Department of Transportation, Public Transportation Division, shall provide local public transportation systems with maximum flexibility to use State operating funds from the "urban and regional maintenance," "elderly and disabled," "work first and transportation employment," and "urban technology, human service transportation management, and rural general public" grant programs to leverage all eligible federal transit operating assistance funds. This section applies only to fiscal years 2011-2012 and 2012-2013.

**STREAMLINE GRANT PROCESS AND CONSOLIDATE GRANTS FOR PUBLIC TRANSPORTATION**

**SECTION 28.20.(a)** The Department of Transportation, Public Transportation Division, shall work with stakeholders to streamline the grant application process, determine levels for funding distributions, and make recommendations to the General Assembly to maximize the use of these grant funds. The Department of Transportation shall report these findings to the Joint Legislative Transportation Oversight Committee no later than March 1, 2012.

**SECTION 28.20.(b)** The Department of Transportation and the Office of State Budget and Management are directed to combine grant funding to the "elderly and disabled," "work first and transportation employment," and the human service transportation management and rural general public grant programs within the "urban technology, human service transportation management and rural general public" grant programs. The Highway Fund Budget Code 84210, Fund Code 7831, shall be changed to reflect these consolidations and the separation of the "urban technology, human service transportation management and rural general public" grant program. The grant categories and respective formulas shall remain unchanged. The Department shall determine an appropriate distribution for funds based upon the needs of the local governments.

Consolidating the funding sources should enable the Department to increase utilization of all available funds based on documented local needs, reduce program administration at the State and local levels, and increase flexibility for regional systems to apply and expend funds for multicounty transit needs.

**SECTION 28.20.(c)** Subsection (b) of this section becomes effective July 1, 2012.

**STUDY REGIONAL CONSOLIDATION OF TRANSIT SYSTEMS**

**SECTION 28.21.** The Department of Transportation, Public Transportation Division, is directed to study the feasibility and appropriateness of developing regional transit systems with the goals of (i) providing increased mobility between existing transit systems within one county and between counties, (ii) improving planning and coordination to better meet public demand, (iii) maximizing funding, and (iv) developing centralized professional staff that will create operational and administrative efficiencies. This study shall examine both (i) the consolidation of transit service planning and delivery based on regional travel patterns and (ii) the consolidation of single-county transit systems, where applicable. The Department of Transportation, Public Transportation Division, shall report the results of its study to the Joint Legislative Transportation Oversight Committee no later than March 1, 2012.

**BLUE LINE EXTENSION AND RED LINE COMMUTER RAIL PROJECTS**

**SECTION 28.21A.** The Department of Transportation shall not enter into any contracts for the construction, design, or planning of the LYNX Blue Line Extension/Northeast Corridor project or the LYNX Red Line/North Corridor Commuter Rail project if the contract requires the present or future commitment of any State funds.

**FLEXIBLE USE OF FUNDS FOR DIVISION OF MOTOR VEHICLES FOR FISCAL YEARS 2011-2012 AND 2012-2013**

**SECTION 28.23.** Of the funds appropriated in this act to the Department of Transportation, Division of Motor Vehicles:

(1) One hundred five thousand dollars ($105,000) may be used for contractual security services at the Division of Motor Vehicles Registration and International Registration Plan (IRP) office in the City of Charlotte.

(2) Two hundred twenty-five thousand thirty dollars ($225,030) may be used for the purpose of staffing the dedicated commercial drivers license skills testing sites located in the City of Lumberton and under construction in Iredell County. The Division is authorized to reclassify five existing, vacant positions for this purpose.

**COMPETITIVE BIDDING OF LICENSE PLATE AGENCY CONTRACTS**

**SECTION 28.23A.(a)** G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. – All registration plates, registration certificates, and certificates of title issued by the Division, outside of those issued from the Charlotte and Raleigh offices of the Division and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of the plates and certificates in localities throughout North Carolina with persons, firms, corporations or governmental subdivisions of the State of North Carolina. The Division shall make a reasonable effort in every locality, except as noted above, to enter into a commission contract for the issuance of the plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts, it shall issue the plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates, and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of the distribution. Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated.

Commission contracts entered into by the Division under this subsection prior to September 1, 2011, shall provide for the payment of compensation on a per transaction basis. The collection of the highway use tax shall be considered a separate transaction for which one dollar and twenty-seven cents ($1.27) compensation shall be paid. The performance at the same time of one or more of the remaining transactions listed in this subsection shall be considered a single transaction for which one dollar and forty-three cents ($1.43) compensation shall be paid.

A transaction is any of the following activities:

(1) Issuance of a registration plate, a registration card issued without collection of property taxes or fees under G.S. 105-330.5, a registration renewal sticker, or a certificate of title.
(2) Issuance of a handicapped placard or handicapped identification card.
(3) Acceptance of an application for a personalized registration plate.
(4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.
(5) Cancellation of a title because the vehicle has been junked.
(6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.
(7) Receipt of the civil penalty imposed by G.S. 20-311 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.
(8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.
(8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.
(8b) Sale of one or more inspection stickers in a single transaction to a licensed inspection station.
(9) Collection of the highway use tax.
(10) Acceptance of a temporary lien filing."

**SECTION 28.23A.(b)** G.S. 20-63(h1) reads as rewritten:

"(h1) Commission contracts entered into by the Division under this subsection prior to September 1, 2011, shall also provide for the payment of an additional one dollar ($1.00) of compensation to commission contract agents for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of G.S. 20-85."

**SECTION 28.23A.(c)** G.S. 20-63 is amended by adding a new subsection to read:

"(h3) Competitive Contract Bidding. – For contracts entered into after September 1, 2011, the Division shall advertise geographic regions for commission contracts. The Division shall award commission contracts through a competitive bidding process, to include bids on all transaction fees to be earned under the commission contract. The Division shall award the contract to the lowest responsible, responsive bidder, taking into consideration background checks, prior contractual relations with potential commission agents, the ability to satisfactorily perform commission contract, and other factors deemed appropriate by the Division and advertised as part of the bid solicitation."

**CONFORMING CHANGES RELATED TO DMV AUDITORS AND CHANGES RELATED TO DMV HEARINGS**

**SECTION 28.23B.(a)** G.S. 20-183.8F reads as rewritten:

**"§ 20-183.8F. Requirements for giving license holders notice of violations and for taking summary action.**

~~(a) Finding of Violation. – When an auditor of the Division finds that a violation has occurred that could result in the suspension or revocation of an inspection station license, a self-inspector license, a mechanic license, or the registration of a person engaged in the business of replacing windshields, the auditor must give the affected license holder written notice of the finding. The notice must be given within five business days after the completion of the investigation that resulted in the discovery of the violation. The notice must state the period of suspension or revocation that could apply to the violation and any monetary penalty that could apply to the violation. The notice must also inform the license holder of the right to a hearing if the Division charges the license holder with the violation.~~

(b) Notice of Charges. – When the Division decides to charge an inspection station, a self-inspector, or a ~~mechanic, or a person who is engaged in the business of replacing windshields~~mechanic with a violation that could result in the suspension or revocation of the person's license, ~~an auditor of~~ the Division must deliver a written statement of the charges to the affected license holder. The statement of charges must inform the license holder of ~~this right,~~the right to request a hearing, instruct the person on how to obtain a hearing, and inform the license holder of the effect of not requesting a hearing. The license holder has the right to a hearing before the license is suspended or revoked. ~~G.S. 20-183.8E~~G.S. 20-183.8G sets out the procedure for obtaining a hearing.

(c) Exception for Summary Action. – The right granted by subsection (b) of this section to have a hearing before a license is suspended or revoked does not apply if the Division summarily suspends or revokes the license after a judge has reviewed and authorized the proposed action. A license issued to an inspection station, a self-inspector, or a mechanic is a substantial property interest that cannot be summarily suspended or revoked without judicial review.

(d) A notice or statement prepared pursuant to this section or an order of the Division that is directed to a mechanic may be served on the mechanic by delivering a copy of the notice, statement, or order to the station or to the place of business of the self-inspector where the mechanic is employed. Delivery under this section to any person may be made via certified mail or by hand delivery."

**SECTION 28.23B.(b)** G.S. 20-183.8G(b) reads as rewritten:

"(b) Hearing After Statement of Charges. – When a license holder receives a statement of charges of a violation that could result in the suspension or revocation of the person's license, the person can obtain a hearing by making a request for a hearing. The person must make the request to the Division within 10 days after receiving the statement of the charges. A person who does not request a hearing within this time limit waives the right to a hearing.

The Division must hold a hearing requested under this subsection within ~~10 business~~30 days after receiving the request. The hearing must be held at the location designated by the Division. Suspension or revocation of the license is stayed until a decision is made following the hearing.

If a person does not request a hearing within the time allowed for making the request, the proposed suspension or revocation becomes effective the day after the time for making the request ends. If a person requests a hearing but does not attend the hearing, the proposed suspension or revocation becomes effective the day after the date set for the hearing."

**DEPARTMENT OF REVENUE TO REPORT ON MOTOR FUELS TAX AUDITOR AND INVESTIGATOR PERFORMANCE**

**SECTION 28.25.** The Department of Revenue, Motor Fuels Division and the Tax Enforcement Division, shall report on the performance of auditor and investigator collection and enforcement activities as it relates to its administration of the motor fuels, alternative fuels, motor carrier, and inspection tax laws. The report will overview the Department's collection and enforcement activities and include recommendations to improve these efforts. This Department shall develop a methodology to compare performance by employees and include these results in the report. The Department of Revenue shall report to the Joint Legislative Transportation Oversight Committee and to the Joint Legislative Commission on Governmental Operations by March 1, 2012.

**REDUCE ADMINISTRATIVE TRANSFERS AND REDIRECT LEAKING UNDERGROUND STORAGE TANK FUNDING TO HIGHWAY FUND FOR SYSTEM PRESERVATION**

**SECTION 28.25A.(a)** Notwithstanding G.S. 119-18(b) or any other provision of law, the amount of allowable costs of administering Chapter 119 of the General Statutes for the Department of Agriculture and Consumer Services shall be reduced by a recurring two hundred sixty-one thousand eight hundred eighty-eight dollars ($261,888). Notwithstanding G.S. 119-18(b) or any other provision of law, the amount of allowable costs of administering Subchapter V of Chapter 105 of the General Statutes for the Department of Revenue shall be reduced by a recurring one million twenty-four thousand five hundred forty-four dollars ($1,024,544).

**SECTION 28.25A.(b)** G.S. 119-18(b) reads as rewritten:

"(b) Proceeds. – The proceeds of the inspection tax levied by this section shall be applied first to the costs of administering this Article and Subchapter V of Chapter 105 of the General Statutes. The remainder of the proceeds shall be credited on a monthly basis to ~~the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund and the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund. If the amount of revenue in the Noncommercial Fund at the end of a month is at least five million dollars ($5,000,000), one-half of the remainder of the proceeds shall be credited to the Noncommercial Fund and one-half of the remainder of the proceeds shall be credited to the Commercial Fund. If the amount of revenue in the Noncommercial Fund at the end of a month is less than this threshold~~

~~amount, all of the remainder of the proceeds shall be credited to the Noncommercial Fund.~~the Highway Fund to be used for system preservation under the Department of Transportation in the highway maintenance program."

**STUDY REIMBURSEMENT PROCESS FOR DEPARTMENT OF CORRECTION LITTER PICKUP**

**SECTION 28.26.** The Office of State Budget and Management, in consultation with the Department of Correction and Department of Transportation, shall study performance-based reimbursement as an alternative to the current funding mechanism for inmate litter pickup, which consists of a direct appropriation from the Department of Transportation's Highway Fund budget to the Department of Correction. Measures for an alternative funding mechanism may include reimbursements based on total mileage of highways cleaned, per hour reimbursements for non-litter pickup activities, or other factors, as appropriate.

The Office of State Budget and Management shall report to the Joint Legislative Transportation Oversight Committee and to the Joint Legislative Commission on Governmental Operations no later than March 1, 2012. It is intended that the report contain recommendations for reimbursement rates that have been agreed upon by the Department of Correction and the Department of Transportation and that the recommended rate structure will be included in the report. The report shall also include any statutory changes to be considered by the General Assembly in relation to this report.

**STATE HIGHWAY PATROL FUNDS TRANSFER**

**SECTION 28.27.(a)** In fiscal year 2011-2012, the State Treasurer shall transfer one hundred ninety-three million five hundred eighty-five thousand four hundred thirty-four dollars ($193,585,434) of the funds allocated to the Highway Fund under G.S. 105-449.125 to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.

**SECTION 28.27.(b)** In fiscal year 2012-2013, the State Treasurer shall transfer one hundred eighty-nine million eight hundred fifty-nine thousand five hundred seven dollars ($189,859,507) of the funds allocated to the Highway Fund under G.S. 105-449.125 to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.

**SECTION 28.27.(c)** The Office of State Budget and Management and the Office of State Controller shall discontinue use of the Crime Control and Public Safety – Highway Fund budget code (Budget Code 24960) and shall certify funds appropriated by this act for the State Highway Patrol under a separate fund code within the Crime Control and Public Safety – General Fund budget code (Budget Code 14900). The Department of Transportation, Office of State Budget and Management, and Office of State Controller shall certify and account for State matching funds for Motor Carrier Safety Assistance Program grants, federal funds, and other receipts budgeted for State Highway Patrol programs, as necessary.

**SECTION 28.27.(d)** G.S. 20-194 reads as rewritten:

"**§ 20-194. ~~Expense of administration; defense~~Defense of members and other State law-enforcement officers in civil actions; payment of judgments.**

~~(a) All expenses incurred in carrying out the provisions of this Article shall be paid out of the highway fund.~~

...."

**STATE HIGHWAY PATROL POSITIONS AND MANAGEMENT FLEXIBILITY**

**SECTION 28.28.(a)** The Administrative Services Section of the State Highway Patrol is hereby eliminated. The Secretary of the Department of Crime Control and Public Safety shall consolidate remaining Administrative Services Section positions and organizational units with other functions of the Department.

**SECTION 28.28.(b)** The following State Highway Patrol positions are hereby eliminated:

| **Position ID** | **Position Title** |
|---|---|
| 60084611 | Program Assistant V |

| | |
|---|---|
| 60084615 | Attorney |
| 60085385 | Sergeant |
| 60084952 | First Sergeant |
| 60085315 | W/A First Sergeant |
| 60084628 | Assessment Analyst |
| 60084772 | Office Assistant |
| 60084779 | Budget Analyst |
| 60085953 | Major |
| 60084998 | First Sergeant |
| 60084947 | Captain |
| 60085945 | W/A Captain |
| 60085302 | Lieutenant |
| 60084755 | Office Assistant |
| 60084858 | Office Assistant |
| 60084686 | Deputy Secretary |

**SECTION 28.28.(c)** In addition to the other budgetary reductions required by this act, the Department of Crime Control and Public Safety, State Highway Patrol, shall have management flexibility to achieve savings in the Patrol's operation of five million five hundred eighty-nine thousand five hundred ninety-two dollars ($5,589,592), recurring, in fiscal year 2011-2012 and eight million seven hundred twenty-two thousand eight hundred ninety-two dollars ($8,722,892), recurring, in fiscal year 2012-2013. The Department of Crime Control and Public Safety, State Highway Patrol, is authorized to eliminate positions to achieve this budgetary reduction but is encouraged to find efficiencies and savings elsewhere in the Patrol's administrative structure. Additionally, the Department of Crime Control and Public Safety, State Highway Patrol, may eliminate filled positions but shall not eliminate sworn law enforcement officer positions assigned to districts for the purposes of traffic and commercial motor vehicle enforcement, unless the State Highway Patrol has first achieved twenty-five percent (25%) of the requisite savings elsewhere in the operation of the Patrol including through staffing reductions in its administrative structure and areas other than district-level enforcement operations. If the State Highway Patrol must eliminate district-level enforcement positions to meet the savings required by this section, then the Patrol shall maintain balanced law enforcement coverage among the troops and is authorized to move trooper positions from one troop to another to maintain balanced coverage.

**SECTION 28.28.(d)** The Commander of the State Highway Patrol shall report on the number of positions eliminated for fiscal year 2011-2012. The report shall identify the position number and type; assignment area or organizational unit; whether the position was filled or vacant; personnel savings achieved; and any severance paid. The report shall also include alternatives considered to the implemented reductions in force. The Commander shall submit the report to the House of Representatives Appropriations Subcommittee on Justice and Public Safety, the Senate Appropriations Committee on Justice and Public Safety, and the Joint Legislative Crime Control and Public Safety Oversight Committee no later than March 1, 2012.

**ADDITIONAL HIGHWAY TRUST FUND MONEY FOR MOBILITY FUND; VISITOR CENTERS FUNDING**

**SECTION 28.30.(a)** G.S. 20-85(a1), as amended by Section 31.11 of this act, reads as rewritten:

"(a1) One dollar ($1.00) of the fee imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited to the North Carolina Highway Fund. The Division shall use the fees derived from transactions with the Division for technology improvements. The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents. An additional fifty cents ($.50) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited to the Mercury Switch Removal Account in the Department of Environment and Natural Resources. An additional fifty cents (50¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited to the Mobility Fund."

**SECTION 28.30.(b)** Notwithstanding G.S. 20-85(a1), as amended by subsection (a) of this section, for fiscal year 2011-2012, the first four hundred thousand dollars ($400,000) collected of the additional fifty cents (50¢) of the transaction fee that would be credited to the

Mobility Fund under G.S. 20-85(a1), as amended by subsection (a) of this section, shall instead be credited to the Reserve for Visitor Centers in the Highway Fund.

**SECTION 28.30.(c)** Notwithstanding G.S. 20-79.7(c)(2), for fiscal year 2012-2013, the annual appropriation under G.S. 20-79.7(c)(2) shall instead be appropriated to the Highway Fund.

**MAINTAIN CURRENT LEVEL OF ADMINISTRATIVE FUNDING FROM HIGHWAY TRUST FUND**

**SECTION 28.31.** Notwithstanding G.S. 136-176(b), the amount of allowable expenses to administer the Highway Trust Fund shall not increase over the amounts allocated in the fiscal year 2011-2012 and fiscal year 2012-2013 base budgets.

**TRANSFER MID-CURRITUCK BRIDGE FUNDING TO GENERAL FUND TO PURCHASE SCHOOL BUSES IN FY 2011-2012 AND TO THE MOBILITY FUND; AND TRANSFER GARDEN PARKWAY FUNDING TO URBAN LOOPS PROGRAM**

**SECTION 28.32.(a)** Any funds appropriated to the North Carolina Turnpike Authority under G.S. 136-176(b2) to cover debt service or related financing costs for the Mid-Currituck Bridge project and that remain unencumbered at the end of fiscal year 2010-2011 are hereby transferred to the General Fund for the purpose of replacing school buses for local school districts. Notwithstanding G.S. 105-187.9(c), as amended by subsection (e) of this section, in fiscal year 2011-2012 the amount to be transferred under G.S. 105-187.9(c) to the Mobility Fund shall be reduced by the sum of five million two hundred twenty-three thousand six hundred forty-two dollars ($5,223,642), and that amount shall instead be transferred to the General Fund for the purpose of replacing school buses for local school districts.

**SECTION 28.32.(b)** Any funds appropriated to the North Carolina Turnpike Authority under G.S. 136-176(b2) to cover debt service or related financing costs for the Garden Parkway project and that remain unencumbered at the end of fiscal year 2010-2011 are hereby transferred to the Highway Trust Fund to be used for urban loop projects.

**SECTION 28.32.(c)** The amendment to G.S. 105-187.9(c) made in Section 28.7(h) of S.L. 2010-31 is repealed. Sections 28.7(j) and 28.7(k) of S.L. 2010-31 are repealed.

**SECTION 28.32.(d)** Section 28.7(l) of S.L. 2010-31 reads as rewritten:

"**SECTION 28.7.(l)** Subsections (f) and (g) of this section become effective July 1, 2011. Subsection (h) of this section becomes effective July 1, 2012. ~~Subsections (i), (j), and (k)~~ Subsection (i) of this section ~~become~~ becomes effective July 1, 2013. The remainder of this section becomes effective July 1, 2010."

**SECTION 28.32.(e)** G.S. 105-187.9(c) reads as rewritten:

"(c) Mobility Fund Transfer. – In each fiscal year, the State Treasurer shall transfer ~~thirty-one million dollars ($31,000,000)~~ forty-six million dollars ($46,000,000) from the taxes deposited in the Trust Fund to the Mobility Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue."

**SECTION 28.32.(f)** Effective July 1, 2012, G.S. 105-187.9(c), as amended by subsection (e) of this section, reads as rewritten:

"(c) Mobility Fund Transfer. – In each fiscal year, the State Treasurer shall transfer ~~forty-six million dollars ($46,000,000)~~ sixty million dollars ($60,000,000) from the taxes deposited in the Trust Fund to the Mobility Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue."

**SECTION 28.32.(g)** Effective July 1, 2013, G.S. 105-187.9(c), as amended by subsection (d) of this section, reads as rewritten:

"(c) Mobility Fund Transfer. – In each fiscal year, the State Treasurer shall transfer ~~sixty million dollars ($60,000,000)~~ eighty-six million dollars ($86,000,000) from the taxes deposited in the Trust Fund to the Mobility Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by

transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue."

**SECTION 28.32.(h)** G.S. 136-89.183A is repealed.

**SECTION 28.32.(i)** G.S. 136-176(b) reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A sum, not to exceed four and eight-tenths percent (4.8%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this section may be used each fiscal year by the Department for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible, subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment. The sum up to the amount anticipated to be necessary to meet the State matching funds requirements to receive federal-aid highway trust funds for the next fiscal year may be set aside for that purpose. The sum of thirty-five million dollars ($35,000,000) shall be allocated and used for urban loop projects. The rest of the funds in the Trust Fund shall be allocated and used as follows:

(1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design, and construct projects on segments or corridors of the Intrastate System as described in G.S. 136-178 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.

(2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.

(3) Six and one-half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.

(4) Six and one-half percent (6.5%) for secondary road construction as provided in G.S. 136-182 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.

The Department must administer funds allocated under subdivisions (1), (2), and (4) of this subsection in a manner that ensures that sufficient funds are available to make the debt service payments on bonds issued under the State Highway Bond Act of 1996 as they become due."

**SECTION 28.32.(j)** G.S. 136-176(b2), as amended by Section 28.7(g) of S.L. 2010-31, reads as rewritten:

"(b2) There is annually appropriated to the North Carolina Turnpike Authority from the Highway Trust Fund the sum of ~~ninety-nine million dollars ($99,000,000).~~ forty-nine million dollars ($49,000,000). Of the amount allocated by this subsection, twenty-five million dollars ($25,000,000) shall be used to pay debt service or related financing costs and expenses on revenue bonds or notes issued for the construction of the Triangle ~~Expressway,~~ Expressway and twenty-four million dollars ($24,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Monroe ~~Connector/Bypass, fifteen million dollars ($15,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Mid-Currituck Bridge, and thirty-five million dollars ($35,000,000) shall be used to pay debt service or related financing expenses on revenue bonds or notes issued for the construction of the Garden Parkway.~~ Connector/Bypass. The amounts appropriated to the Authority pursuant to this subsection shall be used by the Authority to pay debt service or related financing costs and expenses on revenue bonds or notes issued by the Authority to finance the costs of one or more Turnpike Projects, to refund such bonds or notes, or to fund debt service reserves, operating reserves, and similar reserves in connection therewith. The appropriations established by this subsection constitute an agreement by the State to pay the funds appropriated hereby to the

Authority within the meaning of G.S. 159-81(4). Notwithstanding the foregoing, it is the intention of the General Assembly that the enactment of this provision and the issuance of bonds or notes by the Authority in reliance thereon shall not in any manner constitute a pledge of the faith and credit and taxing power of the State, and nothing contained herein shall prohibit the General Assembly from amending the appropriations made in this subsection at any time to decrease or eliminate the amount annually appropriated to the Authority. Funds transferred from the Highway Trust Fund to the Authority pursuant to this subsection are not subject to the equity formula in G.S. 136-17.2A."

**SECTION 28.32.(k)** G.S. 136-187(2) reads as rewritten:

"(2) To study, plan, develop, and undertake preliminary design work on up to ~~nine~~ six Turnpike Projects. At the conclusion of these activities, the Turnpike Authority is authorized to design, establish, purchase, construct, operate, and maintain the following projects:

a. Triangle Expressway, including segments also known as N.C. 540, Triangle Parkway, ~~and~~ Western Wake Freeway in Wake and Durham ~~Counties.~~ Counties, and Southeast Extension in Wake and Johnston Counties.

~~b. Gaston East-West Connector, also known as the Garden Parkway.~~

c. Monroe Connector/Bypass.

d. Cape Fear Skyway.

~~e. A bridge of more than two miles in length going from the mainland to a peninsula bordering the State of Virginia, pursuant to G.S. 136-89.183A.~~

f. Repealed by Session Laws 2008-225, s. 4, effective August 17, 2008.

Any other project proposed by the Authority in addition to the projects listed in this subdivision must be approved by the General Assembly prior to construction.

A Turnpike Project selected for construction by the Turnpike Authority shall be included in any applicable locally adopted comprehensive transportation plans and shall be shown in the current State Transportation Improvement Plan prior to the letting of a contract for the Turnpike Project."

**MOBILITY FUND PROJECT SELECTION CRITERIA ADJUSTMENT**

**SECTION 28.33.(a)** Section 28.7(b) of S.L. 2010-31, as rewritten by Section 8.2 of S.L. 2010-123, reads as rewritten:

"**SECTION 28.7.(b)** The Department of Transportation shall develop selection criteria under G.S. 136-188, as enacted by this act, and shall report to the Joint Legislative Transportation Oversight Committee on its development of the selection criteria. A preliminary report on the selection criteria for projects is due to the Joint Legislative Transportation Oversight Committee by October 1, 2010. A final report is due to the Joint Legislative Transportation Oversight Committee by December 15, 2010. ~~When developing the project criteria and selection process, the Department shall give preferential consideration to projects qualified to receive State grants from the Congestion Relief and Intermodal Transportation 21st Century Fund under Article 19 of Chapter 136 of the General Statutes. When developing the project criteria and selection process, the Department shall involve the public and other stakeholders, including, but not limited to, the North Carolina Association of Metropolitan Planning Organizations, the North Carolina Association of Rural Planning Organizations, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, the North Carolina Metropolitan Mayors Coalition, and the North Carolina Council of Regional Governments.~~"

**SECTION 28.33.(b)** The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee on its development of the selection criteria, taking into account the modification by subsection (a) of this section, by October 15, 2011.

**REMOVE URBAN LOOP PROJECTS FROM STATUTE AND ALLOW DEPARTMENT OF TRANSPORTATION TO DEFINE AND PRIORITIZE URBAN LOOP PROJECTS**

**SECTION 28.34.(a)** G.S. 136-180 reads as rewritten:

"**§ 136-180. Urban loops.**

(a) Funds allocated from the Trust Fund for urban loops may be used only for ~~the following urban loops:~~urban loops as designated and prioritized by the Department of Transportation.

| ~~Loop~~ | ~~Description~~ | ~~Affected Counties~~ |
|---|---|---|
| ~~Asheville Western Loop~~ | ~~Multilane facility on new location from I-26 west of Asheville to US-19/23 north of Asheville for the purpose of connecting these roads. The funds may be used to improve existing corridors.~~ | ~~Buncombe~~ |
| ~~Charlotte Outer Loop~~ | ~~Multilane facility encircling City of Charlotte including 6-laning of the portion from Johnston Road/US-521 south to I-77 south of Charlotte including widening, resurface, and interchange~~ | ~~Mecklenburg~~ |
| ~~Durham Northern Loop~~ | ~~The projects listed below are eligible for funding under this section as part of the Durham Northern Loop. The priorities for planning and constructing these projects will be established by mutual agreement of the Metropolitan Planning Organization (MPO) and the Department of Transportation through the federally mandated Transportation Improvement Program development process. The cross sections for these projects will be established by mutual agreement of the MPO and the Department of Transportation through the State and federal environmental review process. (1) East end connector, from N.C. 147 to U.S. 70 East. (2) U.S. 70, from Lynn Rd. to the Northern Durham Parkway. (3) I-85, from U.S. 70 to Red Mill Rd. (4) Northern Durham Parkway, Section B, from Old Oxford Rd. to I-85. (5) Northern Durham Parkway, Section A, from I-85 to I-540. (6) Northern Durham Parkway, Section C, from Old Oxford Rd. to Roxboro Rd. (7) Roxboro Rd. from Duke St. to Goodwin Rd.~~ | ~~Durham, Wake~~ |
| ~~Fayetteville Western Outer Loop~~ | ~~Multilane facility on new location from US-401 north of Fayetteville to I-95~~ | ~~Cumberland~~ |

| | | |
|---|---|---|
| | ~~south of Hope Mills~~ | |
| ~~Gastonia Loop~~ | ~~Multilane facility known as the Garden Parkway, on a new location beginning at I-485, extending west across southern Gaston County to I-85, and continuing north to US-321~~ | ~~Gaston, Mecklenburg~~ |
| ~~Greensboro Loop~~ | ~~Multilane facility on new location encircling City of Greensboro including interchanges with Cone Boulevard Extension and Lewiston-Fleming Road Extension~~ | ~~Guilford~~ |
| ~~Greenville Loop~~ | ~~Multilane extension of the Greenville Loop from US-264 west of Greenville to NC-11 south of Winterville~~ | ~~Pitt~~ |
| ~~Raleigh Outer Loop~~ | ~~Multilane facility on new location encircling City of Raleigh~~ | ~~Wake, Durham, Johnston~~ |
| ~~Wilmington Bypass~~ | ~~Multilane facility on new location from US-17 northeast of Wilmington to US-421 in southern Wilmington, continuing from US-421 in southern Wilmington northeast along Independence Blvd., and extending to Martin Luther King, Jr. Parkway, and including the Blue Clay Road interchange~~ | ~~New Hanover~~ |
| ~~Winston-Salem Northbelt~~ | ~~Multilane facility on new location from I-40 west of Winston-Salem northerly to US-311/Future I-74 in eastern Forsyth County~~ | ~~Forsyth~~ |

~~(b) The Board of Transportation may, by official resolution, accept a new interstate or freeway as the revised termini of an urban loop described in subsection (a) of this section, and the revised project shall be eligible for funding with funds described in G.S. 136-176(b)(2) if the following conditions are met:~~

~~(1) The Department of Transportation has constructed a new interstate or freeway facility since 1989 and has changed the official route designation from the termini described in subsection (a) of this section to the new facility.~~

~~(2) The Board of Transportation finds that the purposes of the urban loop facility, specifically including reduced congestion and high-speed, safe, regional through-travel service, would be enhanced by the action.~~"

**SECTION 28.34.(b)** In removing the statutory listing of urban loop projects, it is not the intent of the General Assembly to interfere with the acceleration of the following urban loop projects announced in March 2011:

(1) Charlotte I-485 widening.

(2) Greensboro Western Loop, Part C (Bryan Boulevard to Battleground Avenue) and Part D (Battleground Avenue to Lawndale Drive).

(3) Greensboro Eastern Loop, Part B (US 70 to US 29).

(4) Wilmington US 17 Bypass, Part B (US 74/76 to US 421).

**MODIFY DEPARTMENT OF TRANSPORTATION REPORTING REQUIREMENTS**

**SECTION 28.35.(a)** G.S. 136-12(a1), 136-12.2, 136-89.193(e), 136-93.1(g), and 136-125.2 are repealed.

**SECTION 28.35.(b)** G.S. 136-44.2 reads as rewritten:

"**§ 136-44.2. Budget and appropriations.**

...

The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. ~~No federally eligible construction project may be funded entirely with State funds unless the Department of Transportation has first reported to the Joint Legislative Commission on Governmental Operations.~~ For purposes of this section, "federally eligible construction project" means any construction project except secondary road projects developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

...."

**SECTION 28.35.(c)** G.S. 136-89.182 reads as rewritten:

"**§ 136-89.182. North Carolina Turnpike Authority.**

...

(j) Bylaws. – The Authority Board shall adopt, change, or amend bylaws with respect to the calling of meetings, quorums, voting procedures, the keeping of records, and other organizational, staffing, and administrative matters as the Authority Board may determine. Any bylaws, or subsequent changes or amendments to the bylaws, shall be ~~submitted to the Board of Transportation and the Joint Legislative Transportation Oversight Committee for review and comment at least 45 days prior to adoption by the Authority Board.~~ included in the Annual Report as required by G.S. 136-89.193.

(k) Executive Director and Administrative Employees. – The Authority Board shall appoint an Executive Director, whose salary shall be fixed by the Authority, to serve at its pleasure. The Executive Director shall be the Authority's chief administrative officer and shall be responsible for the daily administration of the toll roads and bridges constructed, maintained, or operated pursuant to this Article. The Executive Director or his designee shall appoint, employ, dismiss, and, within the limits approved by the Authority Board, fix the compensation of administrative employees as the Executive Director deems necessary to carry out this Article. ~~The Authority shall report the hiring of all administrative employees to the Joint Legislative Transportation Oversight Committee within 30 days of the date of employment.~~

...."

**COST-EFFICIENT TIRE RETREADS ON STATE VEHICLES AND SCHOOL BUSES**

**SECTION 28.36.(a)** Article 3 of Chapter 143 of the General Statutes is amended by adding a new section to read as follows:

"**§ 143-63.2. Purchase of tires for State vehicles; repair or refurbishment of tires for State vehicles.**

(a) Definitions. – The following terms apply in this section:

(1) State vehicle. – Any vehicle owned, rented, or leased by the State, or an institution, department, or agency of the State, that is driven on a public road consistently at speeds greater than 30 miles per hour.

(2) Critical tire information. – Tire brand name, tire line name, tire identification numbers, load and pressure markings, tire size designation, service descriptions such as load and speed ratings, and other information and specifications placed on the original tire sidewall by the original tire manufacturer.

(b) Forensic Tire Standards. – In order to preserve critical tire information, the Secretary of Administration and any institution, department, or agency of the State shall only procure and install tires for State vehicles that possess the original, unaltered, and uncovered tire sidewall. Furthermore, neither the Secretary of Administration nor any institution, department, or agency of the State shall execute a contract for the repair or refurbishment of tires for State vehicles that provides for the removal, covering, or other alteration in any manner of the critical tire information contained on the original tire sidewall.

(c) Tire Purchase and Contract Standards Applicability. – All contracts for the purchase, repair, or refurbishment of tires for State vehicles, or contracts for the purchase of products or services related to the repair or refurbishment of tires for State vehicles, executed on or after the date this section becomes effective shall comply with the provisions of this section.

(d) Exemption. – Notwithstanding the provisions of this section, the State or any institution, department, or agency of the State that owns or has a legally binding contract in place for the future purchase of tires having altered or covered sidewalls prior to the date that this section becomes effective shall perform its existing contractual obligations related thereto and may continue to use those tires on State vehicles for the useful life of the retreaded tire."

**SECTION 28.36.(b)** Article 17 of Chapter 115C of the General Statutes is amended by adding a new section to read as follows:

"**§ 115C-249.1. Purchase of tires for school buses; repair or refurbishment of tires for school buses.**

(a) Definitions. – The following terms apply in this section:

(1) Critical tire information. – Tire brand name, tire line name, tire identification numbers, load and pressure markings, tire size designation, service descriptions such as load and speed ratings, and other information and specifications placed on the original tire sidewall by the original tire manufacturer.

(2) School bus. – A vehicle as defined in G.S. 20-4.01(27)d3. and G.S. 20-4.01(27)d4. that is owned, rented, or leased by a local board of education.

(b) Forensic Tire Standards. – In order to preserve critical tire information, a local board of education shall procure and install for school buses only tires that possess the original, unaltered, and uncovered tire sidewall. Furthermore, a local board of education shall not execute a contract for the repair or refurbishment of tires for school buses that provides for the removal, covering, or other alteration in any manner of the critical tire information contained on the original tire sidewall.

(c) Tire Purchase and Contract Standards Applicability. – All contracts for the purchase, repair, or refurbishment of tires for school buses, or contracts for the purchase of products or services related to the repair or refurbishment of tires for school buses, executed on or after the date this section becomes effective shall comply with the provisions of this section.

(d) Exemption. – Notwithstanding the provisions of this section, a local board of education that owns or has a legally binding contract in place for the future purchase of tires having altered or covered sidewalls prior to the date that this section becomes effective shall perform its existing contractual obligations related thereto and may continue to use those tires on school buses for the useful life of the retreaded tire."

**DRIVER EDUCATION REFORM**

**SECTION 28.37.(a)** G.S. 115C-215 reads as rewritten:

"**§ 115C-215. ~~Instruction in driver training and safety education.~~Administration of driver education program by the Department of Public Instruction.**

~~There shall be organized and administered under the general supervision of the Superintendent of Public Instruction a program of driver training and safety education in the public schools of this State, said courses to be noncredit courses taught by instructors who meet the requirements established by the State Board of Education. Instructors shall not be required to hold teacher certificates.~~

(a) In accordance with criteria and standards approved by the State Board of Education, the State Superintendent of Public Instruction shall organize and administer a standardized program of driver education to be offered at the public high schools of this State for all physically and mentally qualified persons who (i) are older than 14 years and six months, (ii) are approved by the principal of the school, pursuant to rules adopted by the State Board of Education, (iii) are enrolled in a public or private high school within the State, and (iv) have not previously enrolled in the program. The State Board of Education shall use for this purpose all funds appropriated to it for this purpose and may use all other funds that become available for its use for this purpose.

(b) The driver education curriculum shall include the following:

(1) Instruction on the rights and privileges of the handicapped and the signs and symbols used to assist the handicapped relative to motor vehicles, including the "international symbol of accessibility" and other symbols and devices as provided in Article 2A of Chapter 20 of the General Statutes.

(2) At least six hours of instruction on the offense of driving while impaired and related subjects.

(3) At least six hours of actual driving experience. To the extent practicable, this experience may include at least one hour of instruction on the techniques of defensive driving.

(4) At least one hour of motorcycle safety awareness training.

(c) The State Board of Education shall establish and implement a strategic plan for the driver education program. At a minimum, the strategic plan shall consist of goals and performance indicators, including the number of program participants as compared to the number of persons projected to be eligible to participate in the program, the implementation of a standard curriculum for the program, expenditures for the program, and the success rate of program participants in receiving a drivers license as reported by the Division of Motor Vehicles. The strategic plan shall also outline specific roles and duties of an advisory committee consisting of employees of the Division of Motor Vehicles and the Department of Public Instruction and other stakeholders in driver education.

(d) The State Board of Education shall adopt a salary range for driver education instructors who are public school employees and who are not licensed teachers.

Driver education instructors who are public school employees and who are licensed teachers shall be paid on the teacher salary schedule. A day of employment for driver education instructors who hold teacher certificates shall be the same number of hours required of all regular classroom teachers as established by the local board of education.

(e) The State Board of Education shall adopt rules to permit local boards of education to enter contracts with public or private entities to provide a program of driver education at public high schools. All driver education instructors shall meet the requirements established by the State Board of Education; provided, however, driver education instructors shall not be required to hold teacher certificates."

**SECTION 28.37.(b)** G.S. 115C-216 reads as rewritten:

"**§ 115C-216. Boards of education required to provide courses in operation of motor vehicles.**

(a) Course of Training and Instruction Required in Public High Schools. – ~~The State Board of Education and local~~ Local boards of education ~~are required to provide as a part of the program of the public high schools in this State a course of training and instruction in the operation of motor vehicles, in accordance with G.S. 20-88.1.~~shall offer noncredit driver education courses in high schools using the standardized curriculum provided by the Department of Public Instruction.

(b) Inclusion of Expense in Budget. – The local boards of education ~~of every local school administrative unit are hereby authorized to~~shall include as an item of instructional service and as a part of the current expense fund of the budget of the ~~several~~ high schools under their supervision, the expense necessary ~~to install and maintain such a course of training and instructing eligible persons in such schools in the operation of motor vehicles.~~to offer the driver education course.

(c) to (f) Repealed by Session Laws 1991, c. 689, s. 32(c)."

**SECTION 28.37.(c)** G.S. 20-88.1 reads as rewritten:

"**§ 20-88.1. Driver education.**

~~(a) In accordance with criteria and standards approved by the State Board of Education, the State Superintendent of Public Instruction shall organize and administer a program of driver education to be offered at the public high schools of this State for all physically and mentally qualified persons who (i) are older than 14 years and six months, (ii) are approved by the principal of the school, pursuant to rules adopted by the State Board of Education, (iii) are enrolled in a public or private high school within the State, and (iv) have not previously enrolled in the program. The State Board of Education shall use for such purpose all funds appropriated to it for said purpose, and may use all other funds that become available for its use for said purpose.~~

~~The driver education program established pursuant to this section must include the following:~~

~~(1) Instruction on the rights and privileges of the handicapped and the signs and symbols used to assist the handicapped relative to motor vehicles, including the "international symbol of accessibility" and other symbols and devices as provided in Article 2A of this Chapter.~~

~~(2) At least six hours of instruction on the offense of driving while impaired and related subjects.~~

~~(3) At least six hours of actual driving experience. To the extent practicable, this experience may include at least one hour of instruction on the techniques of defensive driving.~~

~~(b) The State Board of Education shall adopt a salary range for driver education instructors who are public school employees and who do not hold teacher certificates.~~

~~Driver education instructors who are public school employees and who hold teacher certificates shall be paid on the teacher salary schedule. A day of employment for driver education instructors who hold teacher certificates shall be the same number of hours required of all regular classroom teachers as established by the local board of education.~~

~~(b1) The State Board of Education shall adopt rules to permit local boards of education to enter contracts with public or private entities to provide a program of driver education at public high schools. All driver education instructors shall meet the requirements established by the State Board of Education; provided, however, driver education instructors shall not be required to hold teacher certificates.~~

(c) All expenses incurred by the State in carrying out the provisions of ~~this section~~the driver education program administered by the Department of Public Instruction in accordance with G.S. 115C-215 shall be paid out of the Highway Fund.

(d) The Division shall prepare a driver license handbook that explains the traffic laws of the State and shall periodically revise the handbook to reflect changes in these laws. At the request of the Department of ~~Education,~~ Public Instruction, the Division shall provide free copies of the handbook to that Department for use in the program of driver education offered at public high schools."

**SECTION 28.37.(d)** G.S. 20-11(b) reads as rewritten:

"(b) Level 1. – A person who is at least 15 years old but less than 18 years old may obtain a limited learner's permit if the person meets all of the following requirements:

(1) Passes a course of driver education prescribed in ~~G.S. 20-88.1~~ G.S. 115C-215 or a course of driver instruction at a licensed commercial driver training school.

(2) Passes a written test administered by the Division.

(3) Has a driving eligibility certificate or a high school diploma or its equivalent."

**SECTION 28.37.(e)** G.S. 20-322(b) reads as rewritten:

"(b) Regulations adopted by the Commissioner shall state the requirements for a school license, including requirements concerning location, equipment, courses of instruction, instructors, financial statements, schedule of fees and charges, character and reputation of the operators, insurance, bond or other security in such sum and with such provisions as the Commissioner deems necessary to protect adequately the interests of the public, and such other matters as the Commissioner may prescribe. A driver education course offered to prepare an individual for a limited learner's permit or another provisional license must meet the requirements set in ~~G.S. 20-88.1~~ G.S. 115C-215 for the program of driver education offered in the public schools."

**SECTION 28.37.(f)** The State Board of Education shall report to the Joint Legislative Program Evaluation Oversight Committee by July 15, 2011, on the status of the implementation of Section 7.12 of S.L. 2010-31, which mandates the creation of a standard curriculum to be used for the driver education program in the Department of Public Instruction.

**SECTION 28.37.(g)** For the 2011-2012 school year, no State funds shall be used for driver education programs that do not use the standard driver education curriculum created in accordance with Section 7.12 of S.L. 2010-31.

**SECTION 28.37.(h)** The State Board of Education shall establish a pilot program to deliver driver education by electronic means. At least five local school administrative units shall participate in the pilot program. Funds appropriated for driver education shall be used to implement the pilot program. The State Board shall report on the implementation of the pilot program to the Joint Legislative Education Oversight Committee and the Joint Legislative

Program Evaluation Oversight Committee by June 15, 2012. The report shall include the cost per student of delivering the instruction and the success rate of program participants in receiving a drivers license.

**SECTION 28.37.(i)** The State Board of Education shall report to the Joint Legislative Education Oversight Committee and to the Joint Legislative Program Evaluation Oversight Committee by June 15, 2012, on the following:

(1) The most cost-effective method of delivering driver education in the short- and long-term. In making this determination, the State Board of Education shall consider the results of the pilot program implemented pursuant to Section 5 of this act.

(2) The strategic plan adopted by the State Board of Education in accordance with G.S. 115C-215.

## PART XXIX. SALARIES AND BENEFITS

### GOVERNOR AND COUNCIL OF STATE

**SECTION 29.1.(a)** Effective for the 2011-2013 fiscal biennium, the salary of the Governor set by G.S. 147-11(a) in the amount of one hundred thirty-nine thousand five hundred ninety dollars ($139,590) annually, payable monthly, shall remain unchanged.

**SECTION 29.1.(b)** Effective for the 2011-2013 fiscal biennium, the annual salaries for the members of the Council of State, payable monthly, for the 2011-2013 fiscal biennium shall remain unchanged as follows:

| Council of State | Annual Salary |
|---|---|
| Lieutenant Governor | $123,198 |
| Attorney General | 123,198 |
| Secretary of State | 123,198 |
| State Treasurer | 123,198 |
| State Auditor | 123,198 |
| Superintendent of Public Instruction | 123,198 |
| Agriculture Commissioner | 123,198 |
| Insurance Commissioner | 123,198 |
| Labor Commissioner | 123,198 |

### NONELECTED DEPARTMENT HEAD

**SECTION 29.2.(a)** Effective for the 2011-2013 fiscal biennium, the salaries set by G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments remain unchanged as follows:

| Nonelected Department Heads | Annual Salary |
|---|---|
| Secretary of Administration | $120,363 |
| Secretary of Correction | 120,363 |
| Secretary of Crime Control and Public Safety | 120,363 |
| Secretary of Cultural Resources | 120,363 |
| Secretary of Commerce | 120,363 |
| Secretary of Environment and Natural Resources | 120,363 |
| Secretary of Health and Human Services | 120,363 |
| Secretary of Juvenile Justice and Delinquency Prevention | 120,363 |
| Secretary of Revenue | 120,363 |
| Secretary of Transportation | 120,363. |

**SECTION 29.2.(b)** Effective January 1, 2012, subsection (a) of this section reads as rewritten:

"**SECTION 29.2.(a)** Effective for the 2011-2013 fiscal biennium, the salaries set by G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments remain unchanged as follows:

| Nonelected Department Heads | Annual Salary |
|---|---|
| Secretary of Administration | $120,363 |

| | |
|---|---|
| ~~Secretary of Correction~~ | ~~120,363~~ |
| ~~Secretary of Crime Control and Public Safety~~ | ~~120,363~~ |
| Secretary of Cultural Resources | 120,363 |
| Secretary of Commerce | 120,363 |
| Secretary of Environment and Natural Resources | 120,363 |
| Secretary of Health and Human Services | 120,363 |
| ~~Secretary of Juvenile Justice and Delinquency Prevention~~ | ~~120,363~~ |
| Secretary of Public Safety | 120,363 |
| Secretary of Revenue | 120,363 |
| Secretary of Transportation | 120,363". |

**CERTAIN EXECUTIVE BRANCH OFFICIALS**

**SECTION 29.3.** Effective for the 2011-2013 fiscal biennium, the annual salaries, payable monthly, for the following executive branch officials shall remain unchanged as follows:

| Executive Branch Officials | Annual Salary |
|---|---|
| Chairman, Alcoholic Beverage Control Commission | $109,553 |
| State Controller | 153,319 |
| Commissioner of Motor Vehicles | 109,553 |
| Commissioner of Banks | 123,198 |
| Chairman, Employment Security Commission | 120,363 |
| State Personnel Director | 120,363 |
| Chairman, Parole Commission | 100,035 |
| Members of the Parole Commission | 46,178 |
| Chairman, Utilities Commission | 137,203 |
| Members of the Utilities Commission | 123,198 |
| Executive Director, Agency for Public Telecommunications | 92,356 |
| Director, Museum of Art | 112,256 |
| Executive Director, North Carolina Agricultural Finance Authority | 106,635 |
| State Chief Information Officer | 153,227 |

**JUDICIAL BRANCH**

**SECTION 29.4.(a)** Effective for the 2011-2013 fiscal biennium, the annual salaries, payable monthly, for specified judicial branch officials shall remain unchanged as follows:

| Judicial Branch Officials | Annual Salary |
|---|---|
| Chief Justice, Supreme Court | $140,932 |
| Associate Justice, Supreme Court | 137,249 |
| Chief Judge, Court of Appeals | 135,061 |
| Judge, Court of Appeals | 131,531 |
| Judge, Senior Regular Resident Superior Court | 127,957 |
| Judge, Superior Court | 124,382 |
| Chief Judge, District Court | 112,946 |
| Judge, District Court | 109,372 |
| District Attorney | 119,305 |
| Administrative Officer of the Courts | 126,738 |
| Assistant Administrative Officer of the Courts | 115,763 |
| Public Defender | 119,305 |
| Director of Indigent Defense Services | 123,022 |

**SECTION 29.4.(b)** Effective for the 2011-2013 fiscal biennium, the annual salaries of employees of the Judicial Department shall remain unchanged as follows:

(1) The annual salaries of permanent full-time and part-time employees of the Judicial Department whose salaries are not itemized in this act shall remain unchanged.
(2) Notwithstanding anything to the contrary, the annual salaries of clerks of superior court under G.S. 7A-101(a) shall not change when a county changes from one population group to another.
(3) The annual salaries of assistant and deputy clerks of court set under G.S. 7A-102(c1) shall remain unchanged for the 2011-2013 fiscal biennium.
(4) The annual salaries of magistrates set under G.S. 7A-171.1(a) or G.S. 7A-171.1(a1)(1) shall remain unchanged.

**GENERAL ASSEMBLY**

**SECTION 29.5.** Effective for the 2011-2013 fiscal biennium, salaries in the legislative branch shall remain unchanged, as follows:
(1) The salaries of members and officers of the General Assembly shall remain unchanged at the amounts set under G.S. 120-3, as provided in 1994 by the 1993 General Assembly.
(2) The annual salaries set by G.S. 120-37(c) for the principal clerks in each house shall remain unchanged.
(3) The annual salaries set by G.S. 120-37(b) of the sergeant-at-arms and the reading clerk in each house shall remain unchanged.
(4) The annual salaries of the Legislative Services Officer and of nonelected employees of the General Assembly set under G.S. 120-32 shall remain unchanged.

**COMMUNITY COLLEGES PERSONNEL**

**SECTION 29.6.(a)** The annual salaries of all community college nonfaculty and professional staff whose salaries are supported from the State's General Fund shall remain unchanged for the 2011-2013 fiscal biennium.

**SECTION 29.6.(b)** For the 2011-2013 fiscal biennium, the annual salaries of all community college faculty whose salaries are supported from the State's General Fund shall remain unchanged. The minimum salaries for nine-month, full-time curriculum community college faculty shall also remain unchanged as follows:

| Education Level | Minimum Salary |
|---|---|
| Vocational Diploma/Certificate or Less | $34,314 |
| Associate Degree or Equivalent | $34,819 |
| Bachelor's Degree | $37,009 |
| Master's Degree or Education Specialist | $38,952 |
| Doctoral Degree | $41,753. |

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members.

**UNIVERSITY OF NORTH CAROLINA SYSTEM**

**SECTION 29.7.(a)** The annual salaries of all University of North Carolina EPA faculty, EPA nonfaculty, SPA employees, and teachers employed by the North Carolina School of Science and Math shall remain unchanged for the 2011-2013 fiscal biennium.

**SECTION 29.7.(b)** The annual salaries of all employees of the University of North Carolina Health Care System and the Medical Faculty Practice Plan at East Carolina University shall remain unchanged for the 2011-2013 fiscal biennium.

**SALARY ADJUSTMENTS FOR SPECIAL CIRCUMSTANCES ONLY/NO AUTOMATIC INCREASES**

**SECTION 29.8.(a)** The annual pay of all State employees for the 2011-2013 fiscal biennium shall remain unchanged from that authorized on June 30, 2011, or the last date in pay status during the 2010-2011 fiscal year, if earlier; except that an increase may be allowed under the following special circumstances:

(1) For all State employees regardless of funding source, and for employees of the North Carolina Community College System and local school boards who are paid from State funds, salaries may be increased for reallocations or promotions, in-range adjustments for job change, career progression adjustments for demonstrated competencies, or any other adjustment related to an increase in job duties or responsibilities, none of which are subject to the salary freeze otherwise provided by this Part. All other salary increases are prohibited.

(2) For University of North Carolina (i) faculty using funds from the Faculty Recruiting and Retention Fund, the Distinguished Professors Endowment Fund, or the University Cancer Research Fund in the case of faculty involved in cancer research supported by that fund and (ii) faculty, nonfaculty, and other employee adjustments funded from non-State funding sources.

The cumulative salary adjustment allowed under this subsection for the 2011-2012 fiscal year may exceed ten percent (10%) of annual salary only if the adjustment is approved in advance by the Office of State Budget and Management, The University of North Carolina Board of Governors, the Board of the North Carolina Community College System, the Legislative Services Commission, the local board of education, or other authorized body as appropriate.

**SECTION 29.8.(b)** The automatic salary step increases for assistant and deputy clerks of superior court and magistrates are suspended for the 2011-2013 fiscal biennium.

**SECTION 29.8.(c)** The salary increase provisions of G.S. 20-187.3 are suspended for the 2011-2013 fiscal biennium.

**SECTION 29.8.(d)** Notwithstanding G.S. 53-96.1, and except as provided by subdivision (1) of subsection (a) of this section, employees of the Office of the Commissioner of Banks shall not be awarded compensation increases or bonuses during the 2011-2013 fiscal biennium.

**SECTION 29.8.(e)** Employees of the Lottery Commission shall not receive compensation bonuses during the 2011-2013 fiscal biennium.

**SECTION 29.8.(f)** No employee of any other State agency or constituent institution of The University of North Carolina, excluding employees of the University of North Carolina Health Care System and employees participating in a constituent institution's medical faculty practice plan, shall receive compensation bonuses.

**MOST STATE EMPLOYEES**

**SECTION 29.9.(a)** Effective for the 2011-2013 fiscal biennium, the salaries in effect June 30, 2011, of all permanent, full-time State employees whose salaries are set in accordance with the State Personnel Act, shall remain unchanged.

**SECTION 29.9.(b)** Effective for the 2011-2013 fiscal biennium, the compensation of permanent, full-time State officials and persons in exempt positions shall remain unchanged.

**SECTION 29.9.(c)** Effective for the 2011-2013 fiscal biennium, the salaries of permanent, part-time State employees shall remain unchanged.

**SECTION 29.9.(d)** Effective for the 2011-2013 fiscal biennium, the compensation of temporary and permanent hourly State employees shall remain unchanged.

**ALL STATE-SUPPORTED PERSONNEL/NO SALARY INCREASES**

**SECTION 29.10.(a)** The salaries provided for in this act are to be effective July 1, 2011, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, or whose last workday is prior to July 1, 2011.

This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

**SECTION 29.10.(b)** For the 2011-2013 fiscal biennium, the salaries of permanent, full-time employees who work a nine-, ten-, or eleven-month work year schedule shall remain unchanged.

**STATE AGENCY TEACHERS' COMPENSATION**

**SECTION 29.11.(a)** The salaries of employees of schools operated by the Department of Health and Human Services, the Department of Correction, or the Department

of Juvenile Justice and Delinquency Prevention who are paid on the Teacher Salary Schedule or the School Based Administrator Salary Schedule shall remain unchanged for the 2011-2013 fiscal biennium.

**SECTION 29.11.(b)** Effective January 1, 2012, subsection (a) of this section reads as rewritten:

"**SECTION 29.11.** The salaries of employees of schools operated by the Department of Health and Human ~~Services, the Department of Correction, or the Department of Juvenile Justice and Delinquency Prevention,~~ Services or by the Department of Public Safety who are paid on the Teacher Salary Schedule or the School Based Administrator Salary Schedule shall remain unchanged for the 2011-2013 fiscal biennium."

**TEACHER SALARY SCHEDULES**

**SECTION 29.12.(a)** The following monthly salary schedules shall apply for the 2011-2012 fiscal year to certified personnel of the public schools who are classified as teachers. The schedules contain 35 steps, with each step corresponding to one year of teaching experience. Public school employees paid according to this salary schedule and receiving NBPTS certification or obtaining a master's degree shall not be prohibited from receiving the appropriate increase in salary. Provided, however, teachers employed during the 2010-2011 school year who did not work the required number of months to acquire an additional year of experience shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2011-2012 Monthly Salary Schedule

| Years of Experience | "A" Teachers | NBPTS Certification |
|---|---|---|
| 0 | $3,043 | N/A |
| 1 | $3,043 | N/A |
| 2 | $3,043 | N/A |
| 3 | $3,043 | $3,408 |
| 4 | $3,085 | $3,455 |
| 5 | $3,129 | $3,504 |
| 6 | $3,264 | $3,656 |
| 7 | $3,404 | $3,812 |
| 8 | $3,538 | $3,963 |
| 9 | $3,667 | $4,107 |
| 10 | $3,771 | $4,224 |
| 11 | $3,819 | $4,277 |
| 12 | $3,868 | $4,332 |
| 13 | $3,918 | $4,388 |
| 14 | $3,967 | $4,443 |
| 15 | $4,018 | $4,500 |
| 16 | $4,069 | $4,557 |
| 17 | $4,122 | $4,617 |
| 18 | $4,176 | $4,677 |
| 19 | $4,231 | $4,739 |
| 20 | $4,286 | $4,800 |
| 21 | $4,345 | $4,866 |
| 22 | $4,403 | $4,931 |
| 23 | $4,461 | $4,996 |
| 24 | $4,523 | $5,066 |
| 25 | $4,584 | $5,134 |
| 26 | $4,650 | $5,208 |
| 27 | $4,714 | $5,280 |
| 28 | $4,779 | $5,352 |
| 29 | $4,845 | $5,426 |
| 30 | $4,913 | $5,503 |
| 31 | $4,984 | $5,582 |
| 32 | $5,055 | $5,662 |
| 33 | $5,153 | $5,771 |

| | | |
|---|---|---|
| 34+ | $5,255 | $5,886 |

2011-2012 Monthly Salary Schedule
"M" Teachers

| Years of Experience | "M" Teachers | NBPTS Certification |
|---|---|---|
| 0 | $3,347 | N/A |
| 1 | $3,347 | N/A |
| 2 | $3,347 | N/A |
| 3 | $3,347 | $3,712 |
| 4 | $3,394 | $3,764 |
| 5 | $3,442 | $3,817 |
| 6 | $3,590 | $3,982 |
| 7 | $3,744 | $4,153 |
| 8 | $3,892 | $4,316 |
| 9 | $4,034 | $4,474 |
| 10 | $4,148 | $4,601 |
| 11 | $4,201 | $4,659 |
| 12 | $4,255 | $4,719 |
| 13 | $4,310 | $4,780 |
| 14 | $4,364 | $4,840 |
| 15 | $4,420 | $4,902 |
| 16 | $4,476 | $4,964 |
| 17 | $4,534 | $5,029 |
| 18 | $4,594 | $5,095 |
| 19 | $4,654 | $5,162 |
| 20 | $4,715 | $5,229 |
| 21 | $4,780 | $5,301 |
| 22 | $4,843 | $5,372 |
| 23 | $4,907 | $5,442 |
| 24 | $4,975 | $5,518 |
| 25 | $5,042 | $5,592 |
| 26 | $5,115 | $5,673 |
| 27 | $5,185 | $5,751 |
| 28 | $5,257 | $5,830 |
| 29 | $5,330 | $5,911 |
| 30 | $5,404 | $5,994 |
| 31 | $5,482 | $6,080 |
| 32 | $5,561 | $6,167 |
| 33 | $5,668 | $6,287 |
| 34+ | $5,781 | $6,411 |

**SECTION 29.12.(b)** Annual longevity payments for teachers shall be at the rate of one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service. The longevity payment shall be paid in a lump sum once a year.

**SECTION 29.12.(c)** Certified public schoolteachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public schoolteachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

**SECTION 29.12.(d)** The first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate

step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified psychologists.

**SECTION 29.12.(e)** Speech pathologists who are certified as speech pathologists at the master's degree level and audiologists who are certified as audiologists at the master's degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

**SECTION 29.12.(f)** Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

**SECTION 29.12.(g)** As used in this section, the term "teacher" shall also include instructional support personnel.

**SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**

**SECTION 29.13.(a)** The following base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule shall apply for the 2011-2012 fiscal year, commencing July 1, 2011. Provided, however, school-based administrators (i) employed during the 2010-2011 school year who did not work the required number of months to acquire an additional year of experience and (ii) employed during the 2011-2012 school year in the same classification shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2011-2012 Principal and Assistant Principal Salary Schedules

| | Classification | | | | |
|---|---|---|---|---|---|
| Years of Exp | Assistant Principal | Prin I (0-10) | Prin II (11-21) | Prin III (22-32) | Prin IV (33-43) |
| 0-7 | $3,781 | - | - | - | - |
| 8 | $3,931 | - | - | - | - |
| 9 | $4,074 | - | - | - | - |
| 10 | $4,189 | - | - | - | - |
| 11 | $4,243 | $4,243 | - | - | - |
| 12 | $4,298 | $4,298 | - | - | - |
| 13 | $4,353 | $4,353 | $4,408 | - | - |
| 14 | $4,408 | $4,408 | $4,464 | - | - |
| 15 | $4,464 | $4,464 | $4,521 | $4,579 | - |
| 16 | $4,521 | $4,521 | $4,579 | $4,640 | $4,701 |
| 17 | $4,579 | $4,579 | $4,640 | $4,701 | $4,762 |
| 18 | $4,640 | $4,640 | $4,701 | $4,762 | $4,828 |
| 19 | $4,701 | $4,701 | $4,762 | $4,828 | $4,891 |
| 20 | $4,762 | $4,762 | $4,828 | $4,891 | $4,956 |
| 21 | $4,828 | $4,828 | $4,891 | $4,956 | $5,025 |
| 22 | $4,891 | $4,891 | $4,956 | $5,025 | $5,092 |
| 23 | $4,956 | $4,956 | $5,025 | $5,092 | $5,166 |
| 24 | $5,025 | $5,025 | $5,092 | $5,166 | $5,237 |
| 25 | $5,092 | $5,092 | $5,166 | $5,237 | $5,310 |
| 26 | $5,166 | $5,166 | $5,237 | $5,310 | $5,383 |
| 27 | $5,237 | $5,237 | $5,310 | $5,383 | $5,458 |
| 28 | $5,310 | $5,310 | $5,383 | $5,458 | $5,537 |

| | | | | | |
|---|---|---|---|---|---|
| 29 | $5,383 | $5,383 | $5,458 | $5,537 | $5,617 |
| 30 | $5,458 | $5,458 | $5,537 | $5,617 | $5,725 |
| 31 | $5,537 | $5,537 | $5,617 | $5,725 | $5,839 |
| 32 | $5,617 | $5,617 | $5,725 | $5,839 | $5,956 |
| 33 | $5,725 | $5,725 | $5,839 | $5,956 | $6,075 |
| 34 | $5,839 | $5,839 | $5,956 | $6,075 | $6,197 |
| 35 | - | $5,956 | $6,075 | $6,197 | $6,321 |
| 36 | - | - | $6,197 | $6,321 | $6,447 |
| 37 | - | - | $6,321 | $6,447 | $6,576 |
| 38 | - | - | - | $6,576 | $6,708 |
| 39 | - | - | - | $6,708 | $6,842 |
| 40 | - | - | - | - | $6,979 |

2011-2012 Principal and Assistant Principal Salary Schedules

| | Classification | | | |
|---|---|---|---|---|
| Years of Exp | Prin V (44-54) | Prin VI (55-65) | Prin VII (66-100) | Prin VIII (101+) |
| 0-17 | $4,828 | - | - | - |
| 18 | $4,891 | - | - | - |
| 19 | $4,956 | $5,025 | - | - |
| 20 | $5,025 | $5,092 | $5,237 | - |
| 21 | $5,092 | $5,166 | $5,310 | $5,383 |
| 22 | $5,166 | $5,237 | $5,383 | $5,458 |
| 23 | $5,237 | $5,310 | $5,458 | $5,537 |
| 24 | $5,310 | $5,383 | $5,537 | $5,617 |
| 25 | $5,383 | $5,458 | $5,617 | $5,725 |
| 26 | $5,458 | $5,537 | $5,725 | $5,839 |
| 27 | $5,537 | $5,617 | $5,839 | $5,956 |
| 28 | $5,617 | $5,725 | $5,956 | $6,075 |
| 29 | $5,725 | $5,839 | $6,075 | $6,197 |
| 30 | $5,839 | $5,956 | $6,197 | $6,321 |
| 31 | $5,956 | $6,075 | $6,321 | $6,447 |
| 32 | $6,075 | $6,197 | $6,447 | $6,576 |
| 33 | $6,197 | $6,321 | $6,576 | $6,708 |
| 34 | $6,321 | $6,447 | $6,708 | $6,842 |
| 35 | $6,447 | $6,576 | $6,842 | $6,979 |
| 36 | $6,576 | $6,708 | $6,979 | $7,119 |
| 37 | $6,708 | $6,842 | $7,119 | $7,261 |
| 38 | $6,842 | $6,979 | $7,261 | $7,406 |
| 39 | $6,979 | $7,119 | $7,406 | $7,554 |
| 40 | $7,119 | $7,261 | $7,554 | $7,705 |
| 41 | $7,261 | $7,406 | $7,705 | $7,859 |
| 42 | - | $7,554 | $7,859 | $8,016 |
| 43 | - | $7,705 | $8,016 | $8,176 |
| 44 | - | - | $8,176 | $8,340 |

**SECTION 29.13.(b)** The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools and in cooperative innovative high schools, shall be determined in accordance with the following schedule:

| Classification | Number of Teachers Supervised |
|---|---|
| Assistant Principal | |
| Principal I | Fewer than 11 Teachers |
| Principal II | 11-21 Teachers |
| Principal III | 22-32 Teachers |
| Principal IV | 33-43 Teachers |
| Principal V | 44-54 Teachers |

| | |
|---|---|
| Principal VI | 55-65 Teachers |
| Principal VII | 66-100 Teachers |
| Principal VIII | More than 100 Teachers |

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools and in cooperative innovative high school programs shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

**SECTION 29.13.(c)** A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. Provided, however, a principal who acquires an additional step for the 2011-2012 or 2012-2013 fiscal years shall not receive a corresponding increase in salary during the 2011-2013 fiscal biennium. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

**SECTION 29.13.(d)** Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars ($126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars ($253.00) per month.

**SECTION 29.13.(e)** Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

**SECTION 29.13.(f)** If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local school administrative unit with a smaller number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the lower job classification.

This subsection applies to all transfers on or after the effective date of this section, except transfers in school systems that have been created, or will be created, by merging two or more school systems. Transfers in these merged systems are exempt from the provisions of this subsection for one calendar year following the date of the merger.

**SECTION 29.13.(g)** Participants in an approved full-time master's in school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the master's program. For the 2006-2007 fiscal year and subsequent fiscal years, the stipend shall not exceed the difference between the beginning salary of an assistant principal plus the cost of tuition, fees, and books and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program. The Principal Fellows Program or the school of education where the intern participates in a full-time master's in school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns.

**SECTION 29.13.(h)** During the 2011-2012 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

**CENTRAL OFFICE SALARIES**

**SECTION 29.14.(a)** The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers and shall remain unchanged for the 2011-2013 fiscal biennium, beginning July 1, 2011.

| | | |
|---|---|---|
| School Administrator I | $3,309 | $6,207 |
| School Administrator II | $3,508 | $6,583 |
| School Administrator III | $3,724 | $6,984 |

| | | |
|---|---|---|
| School Administrator IV | $3,874 | $7,262 |
| School Administrator V | $4,030 | $7,556 |
| School Administrator VI | $4,275 | $8,013 |
| School Administrator VII | $4,447 | $8,336 |

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee.

**SECTION 29.14.(b)** The monthly salary ranges that follow apply to public school superintendents and shall remain unchanged for the 2011-2013 fiscal biennium, beginning July 1, 2011.

| | | |
|---|---|---|
| Superintendent I | $4,720 | $8,843 |
| Superintendent II | $5,011 | $9,377 |
| Superintendent III | $5,316 | $9,948 |
| Superintendent IV | $5,642 | $10,552 |
| Superintendent V | $5,988 | $11,196 |

The local board of education shall determine the appropriate category and placement for the superintendent based on the average daily membership of the local school administrative unit and within funds appropriated by the General Assembly for central office administrators and superintendents.

**SECTION 29.14.(c)** Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the State Personnel Act.

**SECTION 29.14.(d)** Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for under this section.

**SECTION 29.14.(e)** The State Board of Education shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

**SECTION 29.14.(f)** The salaries of all permanent full-time personnel paid from the Central Office Allotment shall remain unchanged for the 2011-2013 fiscal biennium.

**NONCERTIFIED PERSONNEL SALARIES**

**SECTION 29.15.** The annual salary for permanent, full-time and part-time noncertified public school employees whose salaries are supported from the State's General Fund shall be remain unchanged for the 2011-2013 fiscal biennium.

**ALL FURLOUGHS PROHIBITED EXCEPT AS ORDERED TO BALANCE THE BUDGET/BENEFITS PROTECTION FOR FURLOUGHED PERSONNEL**

**SECTION 29.18.(a)** The following definitions apply in this section:

(1) Furlough. – A temporary, involuntary period of leave from employment without pay but shall not include any period of involuntary leave resulting from disciplinary action.

(2) Public agency. – A State agency, department, or institution in the executive branch of State government; The University of North Carolina; the North Carolina Community College System; and a local school administrative unit.

(3) Public employee. – An employee employed by the legislative or judicial branches or by a public agency.

**SECTION 29.18.(b)** Any furlough of a public employee paid with State funds is prohibited unless the furlough is ordered by the Governor while acting to balance the budget pursuant to Section 5 of Article III of the North Carolina Constitution or by the Chief Justice or

the Legislative Services Officer, respectively, to balance the judicial branch or legislative branch budget.

**SECTION 29.18.(c)** Whenever the Governor, the Chief Justice, or the Legislative Services Officer orders a furlough of public employees, the employing public agency, the judicial branch, or the legislative branch, respectively, shall report to the State Treasurer, the Director of the Retirement Systems Division, and the Executive Administrator of the State Health Plan the following:

(1) The specifics of the authorized furlough.

(2) The positions affected, including all full-time, part-time, temporary, and contractual positions, all nonessential personnel, and all nonteaching positions.

(3) The individual employees affected, including the applicable reduction in salary and whether the employee is subject to or exempt from the Fair Labor Standards Act.

**SECTION 29.18.(d)** If, in accordance with subsection (b) of this section, necessary economies in public agency expenditures must be effected by a furlough of public employees, then a public employee on a furlough who is:

(1) A member of any of the State-supported retirement plans administered by the Retirement Systems Division of the Department of State Treasurer or of an Optional Retirement Program (ORP) administered under G.S. 135-5.1 or G.S. 135-5.4 shall be considered in active service during any period of furlough and shall be entitled to all of the same benefits to which the employee was entitled on the workday immediately preceding the furlough. The member shall suffer no diminution of retirement average final compensation based on being on furlough, and the retirement average final compensation shall be calculated based on the undiminished compensation. During a furlough period, the employer shall pay both employee and employer contributions to the Retirement Systems Division or ORP on behalf of the furloughed employee as though the employee were in active service.

(2) A member of the State Health Plan for Teachers and State Employees shall be considered eligible for coverage under the Plan on the same basis as on the workday immediately preceding the furlough. The public employer shall pay contributions on behalf of the furloughed public employee as though the employee were in active service.

**SECTION 29.18.(e)** The benefits protections provided by this section shall also apply to public employees in the judicial and legislative branches.

**MONITOR COMPLIANCE WITH FREEZE ON MOST SALARY INCREASES**

**SECTION 29.19.(a)** The Office of State Budget and Management and the Office of State Personnel shall monitor jointly the compliance of the following units of government with the provisions of Section 29.8 of this act and shall submit quarterly reports of their monitoring activities to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division: (i) State agencies, departments, and institutions, including authorities, boards, and commissions; (ii) the judicial branch; and (iii) The University of North Carolina and its constituent institutions.

The quarterly reports required by this section shall include the following information:

(1) For agencies reporting through the BEACON HR/Payroll system, (i) a breakdown by action type (including promotion, reallocation, career progression, salary adjustment, and any similar actions increasing employee pay) of the number and annual amount of those increases and (ii) a breakdown by action reason (including in-range higher level, acting pay, trainee adjustment, and other similar action reasons) of the number and annual amount of those action types coded as salary adjustment.

(2) For The University of North Carolina and its constituent institutions, a breakdown of the number and annual amount of those increases categorized by the University as promotions, changes in job duties or responsibilities,

Distinguished Professorships, retention pay, career progression, and any similar actions increasing employee pay.

(3) A summary of actions taken by the Office of State Budget and Management and the Office of State Personnel with respect to unauthorized salary increases.

**SECTION 29.19.(b)** The Legislative Services Officer shall report quarterly to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on compliance with this act.

**COMPREHENSIVE REVIEW AND REFORM OF PUBLIC EMPLOYEE COMPENSATION PLANS**

**SECTION 29.20.(a)** It is the intent of the General Assembly to create and implement a modernized, fair, and fully functional, performance-based compensation system for employees of State agencies, departments, institutions, The University of North Carolina System, the North Carolina Community College System, and local education agencies. To that end, the Legislative Services Commission, jointly through the Fiscal Research and Program Evaluation Divisions, is directed to commission a review and study of the current compensation plans of State agencies, departments, institutions, The University of North Carolina System, the North Carolina Community College System, and local education agencies (government sectors). The Legislative Services Commission may use a Request for Information process or a Request for Proposals process to contract with a qualified consulting firm to perform this review and study. The study, at minimum, shall include all of the following:

(1) A labor market analysis of pay, fringe benefits, classification, and banding plans of government sector employees to determine whether current employees are compensated appropriately relative to market rates for similar positions as compared to (i) other North Carolina public employees, (ii) similar positions and employees in other states, and (iii) where applicable, employees in private industry.

(2) An analysis of current performance-based compensation plans in use by the North Carolina Banking Commission, the University of North Carolina Health Care System, and the performance-based compensation system proposed by Charlotte/Mecklenburg County Schools. This analysis should include an assessment of the effectiveness of these performance-based plans and should include identification of best practices.

(3) An evaluation of current longevity pay as applicable to most government sector employees and recommendations as to whether longevity pay should be continued for new hires.

(4) An evaluation of current laws and policies related to "career status" for employees subject to the State Personnel Act and tenure for public school teachers and university professors. For public school teachers, the evaluation of tenure shall include its relationship with student performance, if any. This evaluation should also include recommendations as to whether these laws and policies should be continued or modified based upon human resource best practices.

(5) An evaluation of salary supplements for public school employees paid on account of master's degrees, attainment of other advanced degrees, and national board certification, including the relationship to student performance, if any. This evaluation should also include recommendations as to whether these salary supplements should be continued or modified based upon the effect on student performance, if any, and human resource best practices.

(6) An evaluation of the State Personnel Act including recommendations as to whether these laws and policies should be continued or modified based upon human resource best practices.

(7) An analysis of the effect of in-State regional variables on employee compensation and recommendations as to how those variables should be addressed in the future.

(8) Recommendations of how to evaluate and compare the value of employee fringe benefits.

(9) Recommendations, timetable, and design of a comprehensive performance-based compensation plan across all government sectors for implementation by the General Assembly. Recommendations must include the design of an effective employee performance evaluation system, including the identification of effective employee performance measures and information systems (including estimated costs) to track and monitor employee performance.

(10) Training recommendations for supervisors and managers regarding employee productivity and performance evaluation.

(11) Recommendations to assure equity of compensation among public employees across government sectors.

(12) Feasibility of a consensus forecasting group to make annual recommendations for compensation policy across all government sectors. These recommendations should include how to establish and maintain priorities for General Fund appropriations necessary to fund the performance-based compensation system while remaining affordable for the State and its taxpayers.

**SECTION 29.20.(b)** By May 1, 2012, the Fiscal Research and Program Evaluation Divisions, or at their direction by the consultant hired to perform the review and study, shall report all findings and any other final results of the study, including recommendations and legislative proposals, to the 2012 Regular Session of the 2011 General Assembly.

**SECTION 29.20.(c)** All State agencies, departments, institutions, The University of North Carolina System, the North Carolina Community College System, and local education agencies shall provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them to the Fiscal Research and Program Evaluation Divisions and/or the consultant necessary to complete this review and study.

**SECTION 29.20.(d)** The State Personnel Director, the State Budget Director, the State Controller, and the State Treasurer shall dedicate and identify staff for technical assistance, as needed, to aid in the reviews required by this section.

**ESTABLISH SALARY ADJUSTMENT AND PERFORMANCE PAY RESERVE**

**SECTION 29.20A.(a)** General Fund and Highway Fund reserve budget codes are established in the Office of State Budget and Management for the purpose of correcting labor market and other salary inequities and to provide funding for a performance-based compensation plan to effectuate recommendations made in connection with the comprehensive review and reform of public employee compensation plans under Section 29.20 of this act.

**SECTION 29.20A.(b)** The Director of the Budget shall allocate funds appropriated to the Salary Adjustment and Performance Pay Reserve in Sections 2.1 and 3.1 of this act, as directed by the General Assembly, to public agencies to fund labor market and equity salary increases and to provide funding for performance-based pay plans upon review of the Comprehensive Review and Reform of Public Employee Compensation Plans report.

Funds appropriated to the Salary Adjustment and Performance Pay Reserve may be allocated to public agencies for positions that are funded by the General Fund or Highway Fund. Positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund may be increased with funding from the Salary Adjustment and Performance Pay Reserve only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

For the purposes of this subsection, the term "public employee" means an employee of a State agency, department, or institution; The University of North Carolina; the North Carolina Community College System; or a local school administrative unit.

**ESTABLISH SEVERANCE EXPENDITURE RESERVE**

**SECTION 29.21.(a)** There are established in the Office of State Budget and Management General Fund and Highway Fund reserve budget codes for the purpose of funding severance-related obligations to State employees subject to the State Personnel Act, and employees exempt from the State Personnel Act, who are separated from service due to a reduction-in-force action. Severance-related expenditures from these reserves shall include obligations to fund:

(1) A State employee's severance salary continuation with an age adjustment factor as authorized by G.S. 126-8.5, including employer-related contributions for social security, and

(2) Noncontributory health premiums for up to 12 months as authorized by G.S. 135-45.2(a)(8) for employees of employing units as defined by G.S. 135-45.1(12).

**SECTION 29.21.(b)** The Director of the Budget shall allocate funds appropriated in Sections 2.1 and 3.1 of this act to the Severance Expenditure Reserve to public agencies to fund severance-related obligations incurred by the agencies as a result of reduction-in-force actions that cause State-supported public employees to be terminated from public employment. Funds appropriated to the Severance Expenditure Reserve shall be expended in their entirety before funds appropriated to a public agency for State-supported personal services expenditures may be used to fund any severance-related obligations.

Funds appropriated to the Severance Expenditure Reserve may be allocated to public agencies for positions that are funded by the General Fund or Highway Fund. Funds appropriated to the Severance Expenditure Reserve may also be allocated to public agencies for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund but only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

For the purposes of this subsection, the term "public employee" means an employee of a State agency, department, or institution; The University of North Carolina; the North Carolina Community College System; or a local school administrative unit.

**REPEAL REDUCTION-IN-FORCE PRIORITY CONSIDERATION UNDER THE STATE PERSONNEL ACT**

**SECTION 29.21A.(a)** G.S. 126-7.1 reads as rewritten:

"**§ 126-7.1. Posting requirement; ~~State employees receive priority consideration; reduction-in-force rights;~~ reduction in force; Work First hiring.**

(a) All vacancies for which any State agency, department, or institution openly recruit shall be posted in a place readily accessible to employees that is located within at least the following:

(1) The personnel office of the agency, department, or institution having the vacancy; and

(2) The particular work unit of the agency, department, or institution having the ~~vacancy~~vacancy. ~~in a location readily accessible to employees.~~ If the decision is made, initially or at any time while the vacancy remains open, to receive applicants from outside the recruiting agency, department, or institution, the vacancy shall be listed with the Office of State Personnel for the purpose of informing current State employees of such vacancy. The State agency, department, or institution may not receive approval from the Office of State Personnel to fill a job vacancy if the agency, department, or institution cannot prove to the satisfaction of the Office of State Personnel that it complied with these posting requirements. The agency, department, or institution which hires any person in violation of these posting requirements shall pay such person when employment is discontinued as a result of such violation for the work performed during the period of time between his initial employment and separation.

(a1) State employees to be affected by a reduction in force shall be notified of the reduction in force as soon as practicable, and in any event, no less than 30 days prior to the effective date of the reduction in force.

~~(a2) The State Personnel Commission shall adopt rules to provide that priority consideration for State employees separated from State employment as the result of reductions in force is to enable a State employee's return to career service at a salary grade and salary rate equal to that held in the most recent position. The State Personnel Commission shall provide that a State employee who:~~

~~(1) Accepts a position at the same salary grade shall be paid at the same salary rate as the employee's previous position.~~

~~(2) Accepts a position at a lower salary grade than the employee's previous position shall be paid at the same rate as the previous position unless the~~

~~salary rate exceeds the maximum of the new salary grade. When the salary rate exceeds the maximum of the salary grade, the employee's new salary rate shall be reduced to the maximum of the new salary grade.~~

(b) Subsection (a) of this section does not apply to vacancies which must be filled immediately to prevent work stoppage or the protection of the public health, safety, or security.

(c) If a State employee subject to this section:

(1) Applies for another position of State employment that would constitute a promotion and;

(2) Has substantially equal qualifications as an applicant who is not a State employee then the State employee shall receive priority consideration over the applicant who is not a State employee. This priority consideration shall not apply when the only applicants considered for the vacancy are current State employees.

~~(c1) If a State employee who has been separated due to reduction in force or who has been given notice of imminent separation due to reduction in force:~~

~~(1) Applies for another position of State employment equal to or lower in salary grade than the position held by the employee at the time of notification or separation; and~~

~~(2) Is determined qualified for that position~~

~~then within all State agencies, the State employee shall receive priority consideration over all other applicants but shall receive equal consideration with other applicants who are current State employees not affected by the reduction in force. This priority shall remain in effect for a period of 12 months from the date the employee receives notification of separation by reduction in force. State employees separated due to reduction in force shall receive higher priority than other applicants with employment or reemployment priorities, except that the reemployment priority created by G.S. 126-5(e)(1) shall be considered as equal. The reduction in force priority created by this subsection shall be administered in accordance with rules promulgated by the State Personnel Commission.~~

~~(c2) If the applicants for reemployment for a position include current State employees, a State employee with more than 10 years of service shall receive priority consideration over a State employee having less than 10 years of service in the same or related position classification. This reemployment priority shall be given by all State departments, agencies, and institutions with regard to positions subject to this Chapter.~~

~~(d) "Qualifications" within the meaning of subsection (c) of this section shall consist of:~~

~~(1) Training or education;~~

~~(2) Years of experience; and~~

~~(3) Other skills, knowledge, and abilities that bear a reasonable functional relationship to the abilities and skills required in the job vacancy applied for.~~

(e) Each State agency, department, and institution is encouraged to hire into State government employment qualified applicants who are current or former Work First Program participants.

(f) Each State agency, department, institution, university, community college, and local education agency shall verify, in accordance with the Basic Pilot Program administered by the United States Department of Homeland Security pursuant to 8 U.S.C. § 1101, et seq, each individual's legal status or authorization to work in the United States after hiring the individual as an employee to work in the United States."

**SECTION 29.21A.(b)** Nothing in this section affects the extended period of priority reconsideration afforded to State employees by Section 26.14D of S.L. 2009-451, as amended by Section 9.3 of S.L. 2009-575.

**SECTION 29.21A.(c)** This section applies to employees subject to reductions in force on or after July 1, 2011.

**JUDICIAL DEPARTMENT EXPENSE AMENDMENTS**

**SECTION 29.21B.(a)** G.S. 7A-300.1 is repealed.

**SECTION 29.21B.(b)** G.S. 135-1(7a)b.10a. is repealed.

**SECTION 29.21B.(c)** G.S. 7A-300(a) reads as rewritten:

"(a) The operating expenses of the Judicial Department shall be paid from State funds, out of appropriations for this purpose made by the General Assembly, or from funds provided by local governments pursuant to ~~G.S. 7A-300.1, 153A-212.1,~~ G.S. 153A-212.1 or

160A-289.1. The Administrative Office of the Courts shall prepare budget estimates to cover these expenses, including therein the following items and such other items as are deemed necessary for the proper functioning of the Judicial Department:

(1) Salaries, departmental expense, printing and other costs of the appellate ~~division;~~division.

(2) Salaries and expenses of superior court judges, district attorneys, assistant district attorneys, public defenders, and assistant public defenders, and fees and expenses of counsel assigned to represent indigents under the provisions of Subchapter IX of this ~~Chapter;~~Chapter.

(3) Salaries, travel expenses, departmental expense, printing and other costs of the Administrative Office of the ~~Courts;~~Courts.

(4) Salaries and travel expenses of district judges, magistrates, and family court ~~counselors;~~counselors.

(5) Salaries and travel expenses of clerks of superior court, their assistants, deputies, and other employees, and the expenses of their offices, including supplies and materials, postage, telephone and telegraph, bonds and insurance, equipment, and other necessary ~~items;~~items.

(6) Fees and travel expenses of jurors, and of witnesses required to be paid by the ~~State;~~State.

(7) Compensation and allowances of court ~~reporters;~~reporters.

(8) Briefs for counsel and transcripts and other records for adequate appellate review when an appeal is taken by an indigent ~~person;~~person.

(9) Transcripts of preliminary hearings in indigency cases and, in cases in which the defendant pays for a transcript of the preliminary hearing, a copy for the district ~~attorney;~~attorney.

(10) Transcript of the evidence and trial court charge furnished the district attorney when a criminal action is appealed to the appellate ~~division;~~division.

(11) All other expenses arising out of the operations of the Judicial Department which by law are made the responsibility of the ~~State; and~~State.

(12) Operating expenses of the Judicial Council and the Judicial Standards Commission."

**SECTION 29.21B.(d)** G.S. 135-53(5) reads as rewritten:

"(5) 'Compensation' shall mean all salaries and wages derived from public funds which are earned by a member of the Retirement System for ~~his~~ the member's service as a justice or judge, or district attorney, or clerk of superior court, or public defender, or the Director of Indigent Defense Services. Effective July 1, 2009, 'compensation' also means payment of military differential wages. ~~'Compensation' shall not include local supplementation as authorized under G.S. 7A-300.1 for Judicial Department employees.~~"

**STATE PERSONNEL INFORMATION AMENDMENT**

**SECTION 29.21C.** G.S. 120-32.01(b) reads as rewritten:

"(b) Notwithstanding subsection (a) of this section, access to the ~~State Personnel Management Information System~~ BEACON/HR payroll system by the ~~Research, Bill Drafting, and Program Evaluation~~ Research and Bill Drafting Divisions shall only be through the Fiscal Research Division."

**SALARY-RELATED CONTRIBUTIONS**

**SECTION 29.22.(a)** Effective for the 2011-2013 fiscal biennium, required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salary. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical benefits, longevity pay, unemployment compensation, accumulated leave,

workers' compensation, severance pay, separation allowances, and applicable disability income benefits.

Notwithstanding any other provision of law, an employing unit, as defined in G.S. 135-45.1 or in G.S. 135-48.1 as enacted by this act, that hires or has hired as an employee a retiree that is in receipt of monthly retirement benefits from any retirement system supported in whole or in part by contributions of the State shall enroll the retiree in the active group and pay the cost for the hospital-medical benefits if that retiree is employed in a position that would require the employer to pay hospital-medical benefits if the individual had not been retired.

**SECTION 29.22.(b)** Effective July 1, 2011, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 2011-2012 fiscal year are: (i) thirteen and sixty-two hundredths percent (13.62%) – Teachers and State Employees; (ii) eighteen and sixty-two hundredths percent (18.62%) – State Law Enforcement Officers; (iii) twelve and thirty-six hundredths percent (12.36%) – University Employees' Optional Retirement System; (iv) twelve and thirty-six hundredths percent (12.36%) – Community College Optional Retirement Program; (v) thirty-one and fifty-four hundredths percent (31.54%) – Consolidated Judicial Retirement System; and (vi) five and zero hundredths percent (5.00%) – Legislative Retirement System. Each of the foregoing contribution rates includes five and zero hundredths percent (5.00%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

**SECTION 29.22.(c)** Effective July 1, 2012, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 2012-2013 fiscal year are: (i) fifteen percent (15%) – Teachers and State Employees; (ii) twenty percent (20%) – State Law Enforcement Officers; (iii) twelve and sixty-six hundredths percent (12.66%) – University Employees' Optional Retirement System; (iv) twelve and sixty-six hundredths percent (12.66%) – Community College Optional Retirement Program; (v) thirty-three and fifty-one hundredths percent (33.51%) – Consolidated Judicial Retirement System; and (vi) five and thirty hundredths percent (5.30%) – Legislative Retirement System. Each of the foregoing contribution rates includes five and thirty hundredths percent (5.30%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

**SECTION 29.22.(d)** Effective July 1, 2011, the maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2011-2012 fiscal year to the State Health Plan for Teachers and State Employees are: (i) Medicare-eligible employees and retirees – three thousand eight hundred thirty-two dollars ($3,832) and (ii) non-Medicare-eligible employees and retirees – four thousand nine hundred thirty-one dollars ($4,931).

**SECTION 29.22.(e)** Effective July 1, 2012, the maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2012-2013 fiscal year to the State Health Plan for Teachers and State Employees are: (i) Medicare-eligible employees and retirees – four thousand thirty-five dollars ($4,035) and (ii) non-Medicare-eligible employees and retirees – five thousand one hundred ninety-two dollars ($5,192).

**LIMIT STATE ABORTION FUNDING/HEALTH PLAN/INSURANCE**

**SECTION 29.23.** No State funds may be used for the performance of abortions or to support the administration of any governmental health plan or government-offered insurance policy offering abortion, except that this prohibition shall not apply where (i) the life of the mother would be endangered if the unborn child were carried to term or (ii) the pregnancy is the result of a rape or incest. Nothing in this section shall be construed to limit medical care

provided after a spontaneous miscarriage. The provisions of G.S. 135-45.8(21) and (22) do not apply to complications or related charges from an abortion not covered due to this section.

**PERMANENTLY EXEMPT PARTICIPANTS IN THE UNIVERSITY OF NORTH CAROLINA PHASED RETIREMENT PROGRAM FROM THE RESTRICTIONS ON RETURNING TO WORK**

**SECTION 29.24.(a)** Section 29.28(f) of S.L. 2005-276, as amended by Section 22.21 of S.L. 2006-66 and by Section 26.22 of S.L. 2009-451, reads as rewritten:

"**SECTION 29.28.(f)** Subsections (a) and (b) of this section become effective August 1, 2005. Subsection (e) of this section becomes effective November 1, 2005, but does not apply to participants in The University of North Carolina Phased Retirement ~~Program until the earlier of August 31, 2013, or 12 months after the issuance of final phased retirement regulations by the Internal Revenue Service.~~Program. The remainder of this section becomes effective June 30, 2005."

**SECTION 29.24.(b)** G.S. 135-1(20) reads as rewritten:

"(20) "Retirement" ~~means~~means, for members who are not participants in The University of North Carolina Phased Retirement Program, the termination of employment and the complete separation from active service with no intent or agreement, express or implied, to return to service. A retirement allowance under the provisions of this Chapter may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must render no service, including part-time, temporary, substitute, or contractor service, at any time during the six months immediately following the effective date of retirement. For purposes of this subdivision, service as a member of a school board or as an unpaid bona fide volunteer in a local school administrative unit shall not be considered service. Notwithstanding the foregoing, for members who are participants in The University of North Carolina Phased Retirement Program, "retirement" means entry into the Phased Retirement Program with a retirement allowance granted under this Chapter."

**REDUCE THE REQUIRED BREAK IN SERVICE FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM TO RETURN TO WORK WITHOUT LOSING RETIREMENT BENEFITS**

**SECTION 29.25.(a)** G.S. 135-1 is amended by adding a new subdivision to read:

"(18a) "Qualifying period" means three months as to members who retire with their last 12 months of service as employees of The University of North Carolina or any of its constituent institutions and return to service as employees of The University of North Carolina or any of its constituent institutions, and means six months as to any other member."

**SECTION 29.25.(b)** G.S. 135-1(20) reads as rewritten:

"(20) "Retirement" means the termination of employment and the complete separation from active service with no intent or agreement, express or implied, to return to service. A retirement allowance under the provisions of this Chapter may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must render no service, including part-time, temporary, substitute, or contractor service, at any time during the ~~six months~~ qualifying period immediately following the effective date of retirement. For purposes of his subdivision, service as a member of a school board or as an unpaid bona fide volunteer in a local school administrative unit shall not be considered service."

**SECTION 29.25.(c)** G.S. 135-3(8)c. reads as rewritten:

"c. Should a beneficiary who retired on an early or service retirement allowance under this Chapter be reemployed by, or otherwise engaged to perform services for, an employer participating in the Retirement System on a part time, temporary, interim, or on a fee for service basis, whether contractual or otherwise, and if such beneficiary earns an amount during the 12 month period immediately following the effective date of retirement or in any calendar year

which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars ($20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar year, except when the reemployment earnings exceed the amount above in the month of December, in which case the retirement allowance shall not be suspended. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

The computation of postretirement earnings of a beneficiary under this sub-subdivision who retired on or before June 1, 2009, regardless of age or years of creditable service, or who retires on or after July 1, 2009, after attaining (i) the age of at least 65 with five years of creditable service; or (ii) the age of at least 60 with 25 years of creditable service; or (iii) 30 years of service; and who has been retired ~~at least six months~~ for at least as long as the qualifying period as defined by G.S. 135-1(18a) and has not been employed in any capacity with a State-supported community college or a State-supported university ~~for at least six months~~ during the qualifying period as defined by G.S. 135-1(18a) immediately preceding the effective date of reemployment, shall not include earnings while the beneficiary is employed to teach in a permanent full-time or part-time capacity that exceeds fifty percent (50%) of the applicable workweek as a nursing instructor in a certified nursing program for a maximum period of three years.

In order for a retired nursing instructor to be rehired, the community college or university must certify to the Teachers' and State Employees' Retirement System that it has a shortage of qualified nursing instructors, and must:

1. Make a good faith effort to fill positions with qualified nursing instructors who are not retirees;
2. Post the vacancy or vacancies for at least two months;
3. Solicit applications through local newspapers, other media, and nursing education programs; and
4. Determine that there is an insufficient number of eligible applicants for the advertised position or positions.

The North Carolina Community College System and The University of North Carolina shall certify to the Retirement System that a beneficiary is employed to teach as a nursing instructor with a State-supported community college or a State-supported university under the provisions of this sub-subdivision."

**PROVIDE FOR VESTING RECIPROCITY BETWEEN THE STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEMS AND THE OPTIONAL RETIREMENT PROGRAM FOR STATE INSTITUTIONS OF HIGHER LEARNING**

**SECTION 29.26.** G.S. 135-5.1(b)(5) reads as rewritten:

"(5) If any participant in the Optional Retirement Program having less than five years ~~coverage under the Optional Retirement Program~~ of total membership service under any combination of the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Optional Retirement Program leaves the employ of The University of North Carolina and either retires or commences employment with an employer not having a retirement

program with the same company underwriting the participant's annuity contract, regardless of whether the annuity contract is held by the participant, a trust, or the Retirement System, the participant's interest in the Optional Retirement Program attributable to contributions of The University of North Carolina shall be forfeited and shall either (i) be refunded to The University of North Carolina and forthwith paid by it to the Retirement System and credited to the pension accumulation fund or (ii) be paid directly to the Retirement System and credited to the pension accumulation fund."

**ENABLE THE UNC HEALTH CARE SYSTEM TO OFFER THE OPTIONAL RETIREMENT PROGRAM (ORP) AS A RETIREMENT OPTION**

**SECTION 29.27.** G.S. 135-5.1(a) reads as rewritten:

"(a) An Optional Retirement Program provided for in this section is authorized and established and shall be implemented by the Board of Governors of The University of North Carolina. The Optional Retirement Program shall be underwritten by the purchase of annuity contracts, which may be both fixed and variable contracts or a combination thereof, or financed through the establishment of a trust, for the benefit of participants in the Program. Participation in the Optional Retirement Program shall be limited to University personnel who are eligible for membership in the Teachers' and State Employees' Retirement Program and who are:

...

(5) Employees of The University of North Carolina Health Care System, subject to rules for eligibility and participation as may be adopted by the Board of Governors in the Optional Retirement Program plan document."

## PART XXX. CAPITAL APPROPRIATIONS

**GENERAL FUND CAPITAL APPROPRIATIONS/INTRODUCTION**

**SECTION 30.1.** The appropriations made by the 2011 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and for acquiring buildings and land for State government purposes.

**CAPITAL APPROPRIATIONS/GENERAL FUND**

**SECTION 30.2.** There is appropriated from the General Fund for the 2011-2012 fiscal year the following amounts for capital improvements:

| **Capital Improvements – General Fund** | **2011-2012** |
|---|---|
| Department of Environment and Natural Resources | |
| Water Resources Development Projects | $ 4,535,000 |
| **TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND** | **$ 4,535,000** |

**WATER RESOURCES DEVELOPMENT PROJECTS**

**SECTION 30.3.(a)** The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects in accordance with the schedule that follows. These funds will provide a State match for an estimated twenty million seven hundred forty-nine thousand dollars ($20,749,000) in federal funds.

| | **Name of Project** | **2011-2012** |
|---|---|---|
| (1) | B. Everett Jordan Lake Water Supply Storage (50/50) | $ 200,000 |
| (2) | Wilmington Harbor Maintenance (98/2) | – |
| (3) | Morehead City Harbor Maintenance (98/2) | 50,000 |
| (4) | Water Resources Planning in Support of Session Law 2010-143 (75/25) | – |
| (5) | John H. Kerr Dam and Reservoir Sec. 216 – (50/50) | 50,000 |
| (6) | Planning Assistance to Communities (50/50) | 50,000 |
| (7) | Aquatic Plant Control, Statewide and Lake Gaston (50/50) | 100,000 |

| | | |
|---|---|---|
| (8) | Wilmington Harbor Improvements Feasibility (50/50) | 250,000 |
| (9) | Belhaven Harbor – CAP – Sec. 1135 (75/25) | – |
| (10) | Concord Streams, NC Sec. 206 (65/35) | – |
| (11) | Manteo Old House Channel – CAP – Sec. 204 (65/25) | – |
| (12) | Wilmington Harbor Deepening (75/25) | 300,000 |
| (13) | Bogue Banks Coastal Storm Damage Reduction Study – (50/50) | 50,000 |
| (14) | West Onslow Beach (Topsail Beach) PED (75/25) | – |
| (15) | Surf City/NTB Coastal Storm Damage Reduction Study – PED (75/25) | 85,000 |
| (16) | Neuse River Basin Restoration Feasibility Study (50/50) | 300,000 |
| (17) | Currituck Sound Environmental Restoration Study (50/50) | – |
| (18) | Princeville Flood Damage Reduction (50/50) | 100,000 |
| (19) | State-Local Projects | 3,000,000 |
| **TOTALS** | | **$ 4,535,000** |

**SECTION 30.3.(b)** Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2011-2012 fiscal year, or if the projects funded under subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) U.S. Army Corps of Engineers project feasibility studies.
(2) U.S. Army Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2011-2012.
(3) State-local water resources development projects.

Funds subject to this subsection that are not expended or encumbered for the purposes set forth in subdivisions (1) through (3) of this subsection shall revert to the General Fund at the end of the 2012-2013 fiscal year.

**SECTION 30.3.(c)** The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects listed in this section.
(2) The estimated cost of each project.
(3) The date that work on each project began or is expected to begin.
(4) The date that work on each project was completed or is expected to be completed.
(5) The actual cost of each project.

The semiannual reports also shall show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

**SECTION 30.3.(d)** Notwithstanding any provision of law to the contrary, funds appropriated for a water resources development project shall be used to provide no more than fifty percent (50%) of the nonfederal portion of funds for the project. This subsection applies to funds appropriated in this act and to funds appropriated prior to the 2011-2013 fiscal biennium that are unencumbered and proposed for reallocation to provide the nonfederal portion of funds for water resources development projects. The limitation on fund usage contained in this subsection applies only to projects in which a local government or local governments participate.

**SECTION 30.3.(e)** G.S. 143-215.73A is amended by adding a new subsection to read:

"(c1) The Department shall provide information annually to appropriate county or municipal officials about the availability, requirements, and process to secure federal and State funding under the Water Resource Development Program."

**NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS**

**SECTION 30.4.(a)** The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

| Name of Project | Amount of Non-General Fund Funding Authorized for FY 2011-2012 |
|---|---|
| Department of Correction | |
| OSDT and DCC Search Trailer | $ 45,400 |
| Statewide Emergency Fund for Small Storage Buildings | 85,000 |
| Statewide Emergency Fund for Visitors Registration | 500,000 |
| Department of Crime Control and Public Safety | |
| High Point Readiness Center – Addition/Alteration | 1,551,000 |
| Greensboro Readiness Center – Addition/Alteration | 306,000 |
| Murphy Firefighting Team Support Facility | 2,946,000 |
| Morrisville Flight Facility Fixed Wing Hangar | 8,815,000 |
| Statewide Master Planning Support Services – Ph III | 125,000 |
| Statewide Master Planning Support Services – Ph IV | 100,000 |
| Statewide Master Planning Support Services – Ph V | 100,000 |
| Camp Butner Operations Readiness Training Center – Ph I | 1,612,000 |
| Department of Cultural Resources | |
| USS North Carolina Battleship Major Hull Repairs | 1,914,000 |
| Construction of Fort at Fort Dobbs State Historic Site | 2,600,000 |
| Department of Environment and Natural Resources | |
| Zoo – New Restrooms at Elephant/Rhino Exhibit | 400,000 |
| Aquarium – Roanoke Island Turtle Rehabilitation Center | 500,000 |
| Wildlife Resources Commission | |
| Agency Land Purchases | 7,500,000 |
| Watha Hatchery Replacement of 3 Residences | 150,000 |
| Fishing Access Areas – New Construction | 240,000 |
| Boating Access Areas – New Construction | 800,000 |
| Repairs & Renovations | 1,105,000 |
| **TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL PROJECTS AUTHORIZED** | **$31,294,400** |

**SECTION 30.4.(b)** From funds deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services pursuant to G.S. 146-30, the sum of thirty thousand dollars ($30,000) for the 2011-2012 fiscal year shall be transferred to the Department of Agriculture and Consumer Services to be used, notwithstanding G.S. 146-30, by the Department for its plant conservation program under Article 19B of Chapter 106 of the General Statutes for costs incidental to the acquisition of land, such as land appraisals, land surveys, title searches, and environmental studies, and for the management of the plant conservation program preserves owned by the Department.

**REPAIRS AND RENOVATIONS RESERVE ALLOCATION**

**SECTION 30.5.(a)** Of the funds in the Reserve for Repairs and Renovations for the 2011-2012 fiscal year, fifty percent (50%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143C-4-3, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty percent (50%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143C-4-3.

Notwithstanding G.S. 143C-4-3, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation or reallocation of these funds.

**SECTION 30.5.(b)** Of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used by the Board of Governors for the installation of fire sprinklers in university residence halls. This portion shall be in addition to funds otherwise appropriated in this act for the same purpose. Such funds shall be allocated among The University of North Carolina's constituent institutions by the President of The University of North Carolina, who shall consider the following factors when allocating those funds:

(1) The safety and well-being of the residents of campus housing programs.

(2) The current level of housing rents charged to students and how that compares to an institution's public peers and other UNC institutions.

(3) The level of previous authorizations to constituent institutions for the construction or renovation of residence halls funded from the General Fund, or from bonds or certificates of participation supported by the General Fund, since 1996.

(4) The financial status of each constituent institution's housing system, including debt capacity, debt coverage ratios, credit rankings, required reserves, the planned use of cash balances for other housing system improvements, and the constituent institution's ability to pay for the installation of fire sprinklers in all residence halls.

(5) The total cost of each proposed project, including the cost of installing fire sprinklers and the cost of other construction, such as asbestos removal and additional water supply needs.

The Board of Governors shall submit progress reports to the Joint Legislative Commission on Governmental Operations. Reports shall include the status of completed, current, and planned projects. Reports also shall include information on the financial status of each constituent institution's housing system, the constituent institution's ability to pay for fire protection in residence halls, and the timing of installation of fire sprinklers. Reports shall be submitted on January 1 and July 1 until all residence halls have fire sprinklers.

**SECTION 30.5.(c)** Of the funds allocated to the Board of Governors of The University of North Carolina in subsection (a) of this section, a portion shall be used by the Board of Governors for campus public safety improvements allowable under G.S. 143C-4-3(b).

**PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS**

**SECTION 30.6.** The appropriations made by the 2011 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the State Budget Act, Chapter 143C of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects, including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 2011 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act. Capital improvement projects authorized by the 2011 General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment.

**UNC NON-GENERAL FUND CAPITAL PROJECTS**

**SECTION 30.7.(a)** The purpose of this section is (i) to authorize the planning or construction by certain constituent institutions of The University of North Carolina of the capital improvement projects listed in this section for the respective institutions and (ii) to authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, Medicare reimbursements for education costs, hospital receipts from patient care, or other funds, or any combination of these funds, but not including funds received for tuition or appropriated from the General Fund of the State. These funds are hereby appropriated.

**SECTION 30.7.(b)** The capital improvement projects, and their respective costs, authorized by this section to be constructed and financed as provided in subsection (a) of this section, including by revenue bonds, by special obligation bonds as authorized in subsection (e) of this section, or by both, are as follows:

| | |
|---|---|
| **Appalachian State University** | |
| Winkler Residence Hall Renovation | $ 11,805,000 |
| **East Carolina University** | |
| Athletic Facilities Expansion and Improvement – Phase 4 Auxiliary Practice Gymnasium | 15,000,000 |
| **Fayetteville State University** | |
| Rudolph Jones Student Center Expansion and Renovation | 23,289,021 |
| **North Carolina A&T State University** | |
| New Health Center | 10,000,000 |
| **North Carolina Central University** | |
| Chidley Residence Hall Expansion and Renovation | 41,193,000 |
| **North Carolina State University** | |
| Centennial Campus Housing Complex | 129,000,000 |
| Lee Residence Hall and Sullivan Residence Hall | 6,000,000 |
| **The University of North Carolina at Chapel Hill** | |
| Carolina Inn Renovation – Phase 2 | 9,000,000 |
| Woollen Gymnasium Renovation – Phase 2 | 2,650,000 |
| **The University of North Carolina at Charlotte** | |
| New Residence Hall – Phase X | 31,045,802 |
| New Residence Hall – Phase XI | 40,837,005 |
| Residence Dining Hall Replacement | 29,176,738 |
| Parking Deck J | 27,418,000 |
| **The University of North Carolina at Greensboro** | |
| Student Recreation Center | 91,000,000 |
| Tower Village II Residence Hall Acquisition | 34,500,000 |
| Campus Police Building | 10,030,000 |
| Village Parking Deck | 10,877,000 |
| **The University of North Carolina at Pembroke** | |
| Student Health Services Comprehensive Renovation and Addition | 3,950,000 |
| **Western Carolina University** | |
| Walker Residence Hall Expansion and Renovation | 17,289,000 |

**SECTION 30.7.(c)** The capital improvement projects, and their respective costs, authorized by this section to be planned and financed as provided in subsection (a) of this

section, including by revenue bonds, by special obligation bonds as authorized in subsection (e) of this section, or by both, are as follows:

| | |
|---|---|
| **The University of North Carolina at Chapel Hill** | |
| Mary Ellen Jones Renovation – Phase 1 | $ 4,000,000 |
| Research Building at Carolina North | 6,000,000 |
| **The University of North Carolina at Charlotte** | |
| New Residence Hall – Phase XII | 3,840,741 |
| Cedar, Hickory, and Sycamore Residence Halls Renovation | 750,000 |

**SECTION 30.7.(d)** At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this section. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

**SECTION 30.7.(e)** Pursuant to G.S. 116D-26, the Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing for the projects authorized by subsections (b) and (c) of this section. The maximum principal amount of bonds to be issued shall not exceed the specified project costs in subsections (b) and (c) of this section plus five percent (5%) of such amount to pay issuance expenses, fund reserve funds, pay capitalized interest, and pay other related additional costs, plus any increase in the specific project costs authorized by the Director of the Budget pursuant to subsection (d) of this section.

**SECTION 30.7.(f)** This section is effective when it becomes law.

**VANCE-GRANVILLE COMM. COLL. BOND FUNDS**

**SECTION 30.9.** Section 3(b) of S.L. 2000-3 reads as rewritten:

"**Section 3.(b)** Except as provided in this subsection, a community college may use the bond proceeds allocated in subsection (a) of this section for new construction only in accordance with the capital allocation formula adopted by the State Board of Community Colleges in March 2000. Except as provided in this subsection, a community college may use the bond proceeds allocated in subsection (a) of this section for repair and renovation only in accordance with the repair and renovation formula adopted by the State Board of Community Colleges in May 1998, as supplemented by additional repair and renovation needs determined by the State Board of Community Colleges as of April 2000. The following provisions govern reallocations:

(1) New Construction. – Except as provided in this paragraph, new construction funds allocated in this section to a specific site may not be allocated to another site. If the local board of trustees of a community college determines that new construction funds allocated to a specific site are not needed at that site, the board may request that the State Board of Community Colleges reallocate those funds for new construction at another site of the community college. Except in the case of Mayland Community ~~College,~~College and Vance-Granville Community College, the funds may not be reallocated from a site outside the main campus county to a site within the main campus county. If the State Board of Community Colleges determines that the funds are not needed for new construction at the site for which they were originally allocated, it shall approve the reallocation to the other site and shall substitute the proposed facility at the other site in the Community Colleges System Office's application to the State Treasurer pursuant to G.S. 116D-43.

Each community college shall submit to the State Board of Community Colleges a statement (i) proposing the capital facilities to be financed with the proceeds of community college general obligation bonds allocated to that community college, (ii) certifying that the proposed site is included in the allocations in this section or is a substitute facility at another site because the funds are not needed for new construction at the site for which they are

allocated in this section, (iii) certifying that the community college is prepared to proceed with the construction, acquisition, or improvement of the proposed capital facilities, and (iv) demonstrating that the applicable matching requirements have been or will be met.

Upon receipt by the State Board of Community Colleges of the information set forth above, the Board shall add the proposed capital facilities to the next application of the Community Colleges System Office to the State Treasurer to issue bonds pursuant to G.S. 116D-43.

The board of trustees of an individual community college may use funds allocated for new construction either for new construction or for repair and renovations.

...."

**ALLOW THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS TO APPROVE THE PLANNING, AUTHORIZATION, AND FUNDING OF CAPITAL PROJECTS FROM NON-GENERAL FUND SOURCES**

**SECTION 30.10.(a)** G.S. 143C-8-12 reads as rewritten:

"**§ 143C-8-12. University system capital improvement projects from sources that are not General Fund sources: approval of new project or change in scope of existing project.**

Notwithstanding any other provision of this Chapter, ~~the Director of the Budget may, upon request of~~ the Board of Governors of The University of North Carolina ~~and after consultation with the Joint Legislative Commission on Governmental Operations,~~ may approve: (i) expenditures to plan a capital improvement project of The University of North Carolina the planning for which is to be funded entirely with non-General Fund money, (ii) expenditures for a capital improvement project of The University of North Carolina that is to be funded and operated entirely with non-General Fund money, or (iii) a change in the scope of any previously approved capital improvement project of The University of North Carolina provided that both the project and change in scope are funded entirely with non-General Fund money. The Board of Governors shall report any expenditure made pursuant to this section to the Office of State Budget and Management and to the Joint Legislative Commission on Governmental Operations."

**SECTION 30.10.(b)** This section is effective when it becomes law.

**AUTHORIZE THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS TO ALLOCATE OR REALLOCATE FUNDS TO REPAIRS AND RENOVATIONS PROJECTS**

**SECTION 30.11.(a)** G.S. 143C-4-3 is amended by adding a new subsection to read:

"(d) Board of Governors May Allocate Funds to Particular Projects. – Any funds in the Reserve for Repairs and Renovations that are allocated to the Board of Governors of The University of North Carolina may be allocated or reallocated by the Board for repairs and renovations projects so long as (i) any project that receives an allocation or reallocation satisfies the requirements of subsection (b) of this section unless the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance and (ii) the allocation or reallocation is in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina. The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations on the allocation or reallocation of funds pursuant to this section within 60 days of any allocation or reallocation under this subsection."

**SECTION 30.11.(b)** This section becomes effective July 1, 2011.

**WAIVE THE REQUIREMENT FOR A CAPITAL PROJECT FEASIBILITY DETERMINATION FOR CAPITAL PROJECTS OF THE UNIVERSITY OF NORTH CAROLINA FOR WHICH ADVANCE PLANNING HAS NOT BEEN UNDERTAKEN**

**SECTION 30.12.(a)** G.S. 143C-3-3 reads as rewritten:

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

...

(c) Repairs and Renovations Funds Request. – In addition to any other information requested by the Director, any State agency proposing to repair or renovate an existing facility shall accompany that request with all of the following:

(1) A description of current deficiencies and proposed corrections with a review and evaluation of that proposal prepared by the Department of Administration.

(2) An estimate of project costs approved by the Department of Administration.

(3) A certification of project feasibility as described in ~~G.S. 143-341.~~G.S. 143-341, except that in the case of a project of The University of North Carolina for which advance planning has not been completed, the request may be submitted without this certification.

(4) An explanation of the method by which the repair or renovation is to be financed.

(d) Capital Funds Request. – In addition to any other information requested by the Director, any State agency proposing to (i) acquire real property, (ii) construct a new facility, (iii) expand the building area (sq. ft.) of an existing facility, or (iv) rehabilitate an existing facility to accommodate new or expanded uses shall accompany that request with all of the following:

(1) An estimate of its space needs and other physical requirements, together with a review and evaluation of that estimate prepared by the Department of ~~Administration.~~Administration, except that in the case of a project of The University of North Carolina for which advance planning has not been completed, the estimate of space needs may be a preliminary estimate.

(2) An estimate of project costs and cash flow requirements approved by the Department of Administration.

(3) A certification of project feasibility as described in ~~G.S. 143-341.~~G.S. 143-341, except that in the case of a project of The University of North Carolina for which advance planning has not been completed, the request may be submitted without this certification.

(4) An explanation of the method by which the acquisition, construction, or rehabilitation is to be financed.

(5) An estimate of maintenance and operating costs, including personnel, for the project, covering the first five years of operation.

(6) An estimate of revenues, if any, to be derived from the project, covering the first five years of operation.

This subsection does not apply to requests for State resources for railroad, highway, or bridge construction or renovation.

(e) Information Technology Request. – In addition to any other information requested by the Director, any State agency requesting significant State resources, as defined by the Director, for the purpose of acquiring or maintaining information technology shall accompany that request with all of the following:

(1) A statement of its needs for information technology and related resources, including expected improvements to programmatic or business operations, together with a review and evaluation of that statement prepared by the State Chief Information Officer.

(2) A statement setting forth the requirements for State resources, together with an evaluation of those requirements by the State Chief Information Officer that takes into consideration the State's current technology, the opportunities for technology sharing, the requirements of Article 3D of Chapter 147 of the General Statutes, and any other factors relevant to the analysis.

(3) A statement by the State Chief Information Officer that sets forth viable alternatives, if any, for meeting the agency needs in an economical and efficient manner.

(4) In the case of an acquisition, an explanation of the method by which the acquisition is to be financed.

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

**SECTION 30.12.(b)** G.S. 143-341(3)b1. reads as rewritten:

**"§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

...

(3) Architecture and Engineering:

...

b1. To certify that a statement of needs pursuant to ~~G.S. 143C-3-3~~ G.S. 143C-3-3, other than for a project of The University of North Carolina for which advance planning has not been completed, is feasible. For purposes of this sub-subdivision, "feasible" means that the proposed project is sufficiently defined in overall scope; building program; site development; detailed design, construction, and equipment budgets; and comprehensive project scheduling so as to reasonably ensure that it may be completed with the amount of funds requested. At the discretion of the General Assembly, advanced planning funds may be appropriated in support of this certification. This sub-subdivision shall not apply to requests for appropriations of less than one hundred thousand dollars ($100,000)."

**SECTION 30.12.(c)** This section becomes effective July 1, 2011.

**JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON CAPITAL IMPROVEMENTS SHALL EXAMINE ADEQUACY OF PLANNING FOR LONG-TERM STATE CAPITAL NEEDS**

**SECTION 30.13.(a)** G.S. 120-259 reads as rewritten:

**"§ 120-259. Purpose and powers of the Committee.**

(a) The Joint Legislative Oversight Committee on Capital Improvements shall examine, on a continuing basis, all of the following: ~~capital improvements approved and undertaken for State facilities and institutions. As used in this section "capital improvements" includes repairs and renovations, and "State facilities and institutions" includes facilities and institutions of The University of North Carolina.~~

(1) Capital improvements approved and undertaken for State facilities and institutions.

(2) The adequacy of planning for the State's long-term capital needs. This examination (i) may take into account the priorities embodied in the six-year capital improvements plan developed pursuant to G.S. 143C-8-5 and other planning documents but shall constitute a separate examination that does not rely exclusively on any particular document and (ii) shall look at capital needs throughout the State and not only in Wake County.

(b) The Committee shall have oversight over implementation of the six-year capital improvements plan developed pursuant to G.S. 143C-8-5.

(c) The Committee, while in discharge of official duties, shall have access to any paper or document and may compel the attendance of any State official or employee before the Committee or secure any evidence under ~~G.S. 120-19.~~ G.S. 120-19. In addition, G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Committee as if it were a joint committee of the General Assembly.

(d) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee.

(e) As used in this section, 'capital improvements' includes repairs and renovations, and 'State facilities and institutions' includes facilities and institutions of The University of North Carolina."

**SECTION 30.13.(b)** The Joint Legislative Oversight Committee on Capital Improvements shall report to the General Assembly no later than April 1, 2012, on the adequacy of planning for the State's long-term capital needs. This report shall accord with G.S. 120-259(a)(2) and shall also include at least the following:

(1) An analysis of the various mechanisms that currently exist to facilitate the long-term capital planning of State facilities and an assessment of the degree to which those mechanisms serve the needs of the State.

(2) An examination of whether and to what degree the capital project priorities of individual State agencies and departments accord with the long-term capital planning needs of the State as a whole.

(3) An examination of whether the long-term capital planning needs of the State might be better served by changing the way in which capital projects are planned. This analysis shall include an examination of the methods by which other States engage in long-term capital planning.

(4) An analysis of whether, historically, the percentage of funds that have been allocated from the Reserve for Repairs and Renovations to the Board of Governors of The University of North Carolina for university facilities compared to the percentage of funds that have been allocated from that Reserve to the Office of State Budget and Management for other State facilities is an appropriate ratio.

(5) An analysis of whether requiring the Board of Governors of The University of North Carolina to set forth capital project requests that prioritize projects on a systemwide basis would better serve the long-term capital planning needs of the State than the current practice of having each campus prioritize capital projects requests for that particular campus does.

## PART XXXI. FEES

### EDUCATION/STATE BOARD AUTHORITY TO ESTABLISH GED TESTING FEES

**SECTION 31.2.** G.S. 115D-5(s) reads as rewritten:

"(s) The State Board of Community Colleges may establish, retain and budget fees charged to students taking the General Education Development (GED) ~~test.~~ test, including fees for retesting. Fees collected for this purpose shall be used only to (i) offset the costs of the GED test, including the cost of scoring the test, (ii) offset the costs of printing GED certificates, and (iii) meet federal and State reporting requirements related to the test."

### NER/COMMERCE/SET REGULATORY FEE FOR UTILITIES COMMISSION

**SECTION 31.4.(a)** The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2011.

**SECTION 31.4.(b)** The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2011-2012 fiscal year is two hundred thousand dollars ($200,000).

**SECTION 31.4.(c)** This section becomes effective July 1, 2011.

### FEE TO ADVERTISE IN WELCOME CENTERS

**SECTION 31.4A.** G.S. 143B-421.3 reads as rewritten:

"**§ 143B-421.3. Consultation required for welcome and visitor centers.**

(a) Consultation. – The Department of Commerce and the Department of Transportation shall consult with the Joint Legislative Commission on Governmental Operations and the House and Senate Appropriations Subcommittees on Natural and Economic Resources before beginning the design or construction of any new welcome center or visitor center buildings.

(b) Advertising. – An annual fee is imposed on a person who places or displays advertising materials in a welcome center building. The fee imposed by this subsection does not apply to governmental or public sector entities. The annual fee shall be as follows:

(1) For advertising materials where the width is not more than four inches and the length is not more than nine inches: one hundred dollars ($100.00) per year per welcome center building.

(2) For advertising materials where the width is more than four inches or the length is more than nine inches: two hundred dollars ($200.00) per year per welcome center building."

### NER/AGRICULTURE/INCREASE FEES FOR PET SHOPS, AUCTIONS, KENNELS, AND DEALERS

**SECTION 31.5.(a)** G.S. 19A-27 reads as rewritten:

"**§ 19A-27. License required for operation of pet shop.**

No person shall operate a pet shop unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license shall be for the fiscal year and the license fee shall be ~~fifty dollars ($50.00)~~seventy-five dollars ($75.00) for each license period or part thereof beginning with the first day of the fiscal year."

**SECTION 31.5.(b)** G.S. 19A-28 reads as rewritten:

"**§ 19A-28. License required for public auction or boarding kennel.**

No person shall operate a public auction or a boarding kennel unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license period shall be the fiscal year and the license fee shall be ~~fifty dollars ($50.00)~~seventy-five dollars ($75.00) for each license period or part thereof beginning with the first day of the fiscal year."

**SECTION 31.5.(c)** G.S. 19A-29 reads as rewritten:

"**§ 19A-29. License required for dealer.**

No person shall be a dealer unless a license to deal shall have been granted by the Director to such person. Application for such license shall be in the manner provided by the Director. The license period shall be the fiscal year and the license fee shall be ~~fifty dollars ($50.00)~~seventy-five dollars ($75.00) for each license period or part thereof, beginning with the first day of the fiscal year."

**NER/AGRICULTURE/FEES FOR OUT-OF-STATE SOIL TESTS AND EXPEDITED SOIL TESTS**

**SECTION 31.7.** G.S. 106-22 reads as rewritten:

"**§ 106-22. Joint duties of Commissioner and Board.**

The Commissioner of Agriculture, by and with the consent and advice of the Board of Agriculture shall:

...

(17) Agronomic Testing. – Provide agronomic testing services and charge reasonable fees for plant ~~analysis and~~analysis, nematode ~~testing.~~testing, out-of-state soil testing, and expedited soil testing. The Board shall charge at least four dollars ($4.00) for plant ~~analysis and~~analysis, at least two dollars ($2.00) for nematode ~~testing.~~testing, at least five dollars ($5.00) for out-of-state soil testing, and at least one hundred dollars ($100.00) for expedited soil testing."

**NER/AGRICULTURE/TECHNICAL CORRECTIONS REGARDING COMMERCIAL FERTILIZER INSPECTION FEE, PESTICIDE TECHNICIAN IDENTIFICATION CARD RENEWAL FEE, AND PESTICIDE DEALER LICENSE RENEWAL FEE**

**SECTION 31.8.(a)** G.S. 106-671(b) reads as rewritten:

"(b) Reporting System. – Each manufacturer, importer, jobber, firm, corporation or person who distributes commercial fertilizers in this State shall make application to the Commissioner for a permit to report the tonnage of commercial fertilizer sold and shall pay to the North Carolina Department of Agriculture and Consumer Services an inspection fee of ~~twenty-five cents (25¢)~~fifty cents (50¢) per ton. The Commissioner is authorized to require each such distributor to keep such records as may be necessary to indicate accurately the tonnage of commercial fertilizers sold in the State, and as are satisfactory to the Commissioner. Such records shall be available to the Commissioner, or his duly authorized representative, at any and all reasonable hours for the purpose of making such examination as is necessary to verify the tonnage statement and the inspection fees paid. Each registrant shall report monthly the tonnage sold to non-registrants on forms furnished by the Commissioner. Such reports shall be made and inspection fees shall be due and payable monthly on the fifteenth of each month covering the tonnage and kind of commercial fertilizers sold during the past month. If the report is not filed and the inspection fee paid by the last day of the month it is due, the amount due shall bear a penalty of ten percent (10%), which shall be added to the inspection fee due. If the report is not filed and the inspection fee paid within 60 days of the date due, or if the report or tonnage be false, the Commissioner may revoke the permit."

**SECTION 31.8.(b)** G.S. 106-65.31(b1) reads as rewritten:

"(b1) Registration. – Within 75 days after the hiring of an employee who is either an estimator, salesman, serviceman, or solicitor, the licensee shall apply to the Division for the issuance of an identification card for such employee. The application must be accompanied by a fee of forty dollars ($40.00) for each card. The card shall be issued in the name of the employee and shall bear the name of the employing licensee, the employer's license number and phases, the name and address of the employer's business, and such other information as the Committee may specify. The identification card shall be carried by the employee on his person at all times while performing any phase of structural pest control work. The card must be displayed upon demand by the Commissioner, the Committee, the Division, or any representative thereof, or the person for whom any phase of structural pest control work is being performed. A registered technician's identification card must be renewed annually on or before June 30 by payment of a renewal fee of ~~twenty-five dollars ($25.00).~~forty dollars ($40.00). If a card is lost or destroyed the licensee may secure a duplicate for a fee of five dollars ($5.00).The licensee shall notify the Division of the termination or change in status of any registered technician. All identification cards expire when a license expires."

**SECTION 31.8.(c)** G.S. 143-448(c) reads as rewritten:

"(c) The license for a pesticide dealer may be renewed annually upon application to the Board, accompanied by a fee of ~~fifty dollars ($50.00)~~seventy-five dollars ($75.00) for each license, on or before the first day of January of the calendar year for which the license is issued."

**NER/AGRICULTURE/INCREASE AGRICULTURAL LIMING MATERIALS TONNAGE FEES**

**SECTION 31.9.** G.S. 106-92.8 reads as rewritten:

"**§ 106-92.8. Tonnage fees: reporting system.**

For the purpose of defraying expenses connected with the registration, inspection and analysis of the materials coming under this Article, each manufacturer or registrant shall pay to the Department of Agriculture and Consumer Services tonnage fees in addition to registration fees as follows: for agricultural liming material, ~~ten cents (10¢)~~fifty cents (50¢) per ton; for landplaster, ~~ten cents (10¢)~~fifty cents (50¢) per ton; excepting that these fees shall not apply to materials which are sold to fertilizer manufacturers for the sole purpose for use in the manufacture of fertilizer or to materials when sold in packages of 10 pounds or less.

Any manufacturer, importer, jobber, firm, corporation or person who distributes materials coming under this Article in this State shall make application for a permit to report the materials sold and pay the tonnage fees as set forth in this section.

The Commissioner of Agriculture shall grant such permits on the following conditions: The applicant's agreement that he will keep such records as may be necessary to indicate accurately the tonnage of liming materials, etc., sold in the State and his agreement for the Commissioner or this authorized representative to examine such records to verify the tonnage statement. The registrant shall report quarterly and pay the applicable tonnage fees quarterly, on or before the tenth day of October, January, April, and July of each year. The report and payment shall cover the tonnage of liming materials, etc., sold during the preceding quarter. The report shall be on forms furnished by the Commissioner. If the report is not filed and the tonnage fees paid by the last day of the month in which it is due, or if the report be false, the amount due shall bear a penalty of ten percent (10%) which shall be added to the tonnage fees due. If the report is not filed and the tonnage fees paid within 60 days of the date due, or if the report or tonnage be false, the Commissioner may revoke the permit and cancel the registration."

**NER/AGRICULTURE/INCREASE ANTIFREEZE DISTRIBUTION REGISTRATION FEE**

**SECTION 31.10.** G.S. 106-579.4 reads as rewritten:

"**§ 106-579.4. Registrations.**

On or before the first day of July of each year, and before any antifreeze may be distributed for the permit year beginning July 1, the manufacturer, packager, or person whose name appears on the label shall make application to the Commissioner on forms provided by the latter for registration for each brand of antifreeze which he desires to distribute. The application shall be accompanied by specimens or facsimiles of labeling for all container sizes to be distributed, when requested by the Commissioner; a license and inspection fee of ~~two hundred fifty dollars ($250.00)~~five hundred dollars ($500.00) for each brand of antifreeze and a

properly labeled sample of the antifreeze shall also be submitted at this time. The Commissioner may inspect, test, or analyze the antifreeze and review the labeling. If the antifreeze is not adulterated or misbranded, if it meets the standards established and promulgated by the Board, and if the said antifreeze is not such a type or kind that is in violation of this Article, the Commissioner shall thereafter issue a written license or permit authorizing the sale of such antifreeze in this State for the fiscal year in which the license or inspection fee is paid. If the antifreeze is adulterated or misbranded, if it fails to meet standards promulgated by the Board, or is in violation of this Article or regulations thereunder, the Commissioner shall refuse to register the antifreeze, and he shall return the application to the applicant, stating how the antifreeze or labeling is not in conformity. If the Commissioner shall, at a later date, find that a properly registered antifreeze product has been materially altered or adulterated, or a change has been made in the name, brand or trademark under which the antifreeze is sold, or that it violates the provisions of this Article, or that it violates regulations, definitions or standards duly promulgated by the Board, he shall notify the applicant that the license authorizing sale of the antifreeze is canceled. No antifreeze license shall be canceled unless the registrant shall have been given an opportunity to be heard before the Commissioner or his duly designated agent and to modify his application in order to comply with the requirements of this Article and regulations, definitions, and standards promulgated by the Board. All fees received by the Commissioner shall be placed in the Department of Agriculture and Consumer Services fund for the purpose of supporting the antifreeze enforcement and testing program."

**NER/ENVIRONMENT/REDUCE PORTION OF CERTIFICATE OF TITLE FEES CREDITED TO MERCURY SWITCH REMOVAL ACCOUNT**

**SECTION 31.11.** G.S. 20-85(a1) reads as rewritten:

"(a1) One dollar ($1.00) of the fee imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited to the North Carolina Highway Fund. The Division shall use the fees derived from transactions with the Division for technology improvements. The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents. An additional ~~one dollar ($1.00)~~fifty cents (50¢) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited to the Mercury Switch Removal Account in the Department of Environment and Natural Resources."

**LOCALS TO RECEIVE LARGER PORTION OF FOOD AND LODGING FEES**

**SECTION 31.11A.** G.S. 130A-248(d) reads as rewritten:

"(d) The Department shall charge each establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging and Adult Services of the Department of Health and Human Services, establishments that prepare and sell meat food products or poultry products, and public school cafeterias, a fee of seventy-five dollars ($75.00) for each permit issued. This fee shall be reassessed annually for permits that do not expire. The Commission shall adopt rules to implement this subsection. Fees collected under this subsection shall be used for State and local food, lodging, and institution sanitation programs and activities. No more than ~~thirty-three and one-third percent (33 1/3%)~~ten percent (10%) of the fees collected under this subsection may be used to support State health programs and activities."

**NER/ENVIRONMENT/ADDITIONAL USES OF HAZARDOUS WASTE FEES**

**SECTION 31.15.** G.S. 130A-294.1(b) reads as rewritten:

"(b) Funds collected pursuant to this section shall be used for personnel and other resources necessary to:

(1) Provide a high level of technical assistance and waste minimization effort for the hazardous waste management program;
(2) Provide timely review of permit applications;
(3) Insure that permit decisions are made on a sound technical basis and that permit decisions incorporate all conditions necessary to accomplish the purposes of this Part;
(4) Improve monitoring and compliance of the hazardous waste management program;

(5) Increase the frequency of inspections;
(6) Provide chemical, biological, toxicological, and analytical support for the hazardous waste management program; and
(7) Provide resources for emergency response to imminent hazards associated with the hazardous waste management program.
(8) Implement and provide oversight of necessary response activities involving inactive hazardous substance or waste disposal sites.
(9) Provide compliance and prevention activities within the solid waste program to ensure that hazardous waste is not disposed in solid waste management facilities."

**NER/NATURAL RESOURCES/NO NEW FEES FOR PARKING IN STATE PARKS**

**SECTION 31.22.** Notwithstanding any provision to the contrary, the funds appropriated to the Department of Environment and Natural Resources for State Parks for the 2011-2012 fiscal year and for the 2012-2013 fiscal year shall not be reduced or replaced with fees for parking at State Parks, unless these fees were charged prior to the 2011-2012 fiscal year. No fees shall be charged and no fees shall be collected for parking in a State Park during the 2011-2012 fiscal year and for the 2012-2013 fiscal year, unless these fees were charged prior to the 2011-2012 fiscal year.

**JPS/AOC/INCREASE CERTAIN COURT COSTS**

**SECTION 31.23.(a)** G.S. 7A-304(a)(4) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

...

(4) For support of the General Court of Justice, the sum of one hundred twenty-nine dollars and fifty cents ~~($100.50)~~($129.50) in the district court, including cases before a magistrate, and the sum of one hundred ~~two~~ fifty-four dollars and fifty cents ~~($102.50)~~($154.50) in the superior court, to be remitted to the State Treasurer. For a person convicted of a felony in superior court who has made a first appearance in district court, both the district court and superior court fees shall be assessed. The State Treasurer shall remit the sum of two dollars and five cents ($2.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.95) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19. "

**SECTION 31.23.(b)** G.S. 7A-305 reads as rewritten:

"**§ 7A-305. Costs in civil actions.**

(a) In every civil action in the superior or district court, except for actions brought under Chapter 50B of the General Statutes, shall be assessed:

...

(2) For support of the General Court of Justice, the sum of one hundred ~~twenty-five~~eighty dollars ~~($125.00)~~($180.00) in the superior court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, an additional one thousand dollars ($1,000) shall be paid upon its assignment, and the sum of ~~eighty-one~~ hundred thirty dollars ~~($80.00)~~($130.00) in the district court except that if the case is assigned to a magistrate the sum shall be ~~fifty-five~~eighty dollars ~~($55.00).~~($80.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of two dollars and five cents ($2.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.95) of each fee collected under this

subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19.

...

(a5) In every civil action in the superior or district court wherein a party files a pleading containing one or more counterclaims or cross-claims, except for counterclaim and cross-claim actions brought under Chapter 50B of the General Statutes for which costs are assessed pursuant to subsection (a1) of this section, the following shall be assessed:

(1) For the use of the courtroom and related judicial facilities, the sum of twelve dollars ($12.00) in cases heard before a magistrate, and the sum of sixteen dollars ($16.00) in district and superior court, to be remitted to the municipality providing the facilities in which the judgment is rendered. If a municipality does not provide the facilities in which the judgment is rendered, the sum is to be remitted to the county in which the judgment is rendered. Funds derived from the facilities' fees shall be used in the same manner, for the same purposes, and subject to the same restrictions as facilities' fees assessed in criminal actions.

(2) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of four dollars ($4.00), to be credited to the Court Information Technology Fund.

(3) For support of the General Court of Justice, the sum of one hundred eighty dollars ($180.00) in the superior court, except that if a case is assigned to a special superior court judge as a complex business case under G.S. 7A-45.3, an additional one thousand dollars ($1,000) shall be paid upon its assignment, and the sum of one hundred thirty dollars ($130.00) in the district court, except that if the case is assigned to a magistrate, the sum shall be eighty dollars ($80.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of two dollars and five cents ($2.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents (95¢) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.19.

...

(f) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing containing one or more motions not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a motion containing as a sole claim for relief the taxing of costs, including attorneys' fees."

**SECTION 31.23.(c)** G.S. 7A-306 reads as rewritten:

"**§ 7A-306. Costs in special proceedings.**

(a) In every special proceeding in the superior court, the following costs shall be assessed:

...

(2) For support of the General Court of Justice the sum of ~~seventy-five~~one hundred six dollars ~~($75.00).~~($106.00). In addition, in proceedings involving land, except boundary disputes, if the fair market value of the land involved is over one hundred dollars ($100.00), there shall be an additional sum of thirty cents (30¢) per one hundred dollars ($100.00) of value, or major fraction thereof, not to exceed a maximum additional sum of two hundred dollars ($200.00). Fair market value is determined by the sale price if there is a sale, the appraiser's valuation if there is no sale, or the appraised value from the property tax records if there is neither a sale nor an appraiser's valuation. Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of two dollars and five cents ($2.05) of each ~~seventy-five-dollar ($75.00)~~one hundred six-dollar ($106.00) General Court of Justice fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4.

...

(g) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing containing one or more motions not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a motion containing as a sole claim for relief the taxing of costs, including attorneys' fees."

**SECTION 31.23.(d)** G.S. 7A-307(a) reads as rewritten:

"(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, in trust proceedings under G.S. 36C-2-203, and in collections of personal property by affidavit, the following costs shall be assessed:

...

(2) For support of the General Court of Justice, the sum of ~~seventy five~~one hundred six dollars ~~($75.00),~~($106.00), plus an additional forty cents (40¢) per one hundred dollars ($100.00), or major fraction thereof, of the gross estate, not to exceed six thousand dollars ($6,000). Gross estate shall include the fair market value of all personalty when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the inventory, the fee for such additional value shall be assessed and paid upon the filing of any account or report disclosing such additional value. For each filing the minimum fee shall be fifteen dollars ($15.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of two dollars and five cents ($2.05) of each ~~seventy five dollar ($75.00)~~one hundred six-dollar ($106.00) General Court of Justice fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4.

...

(4) For the support of the General Court of Justice, the sum of twenty dollars ($20.00) shall accompany any filing containing one or more motions not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a motion containing as a sole claim for relief the taxing of costs, including attorneys' fees."

**SECTION 31.23.(e)** G.S. 7A-308(a) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

(1) Foreclosure under power of sale in deed of trust or mortgage.....~~$150.00~~$300.00
If the property is sold under the power of sale, an additional amount will be charged, determined by the following formula: forty-five cents (.45) per one hundred dollars ($100.00), or major fraction thereof, of the final sale price. If the amount determined by the formula is less than ten dollars ($10.00), a minimum ten dollar ($10.00) fee will be collected. If the amount determined by the formula is more than five hundred dollars ($500.00), a maximum five hundred-dollar ($500.00) fee will be collected.

...

(20) Filing a motion to assert a right of access under G.S. 1-72.1 ..... ~~30.00~~30.00

(21) In civil matters, all alias and pluries summons issued and all endorsements issued on an original summons ..... 15.00."

**SECTION 31.23.(f)** G.S. 7A-34.1 is repealed.

**JPS/AOC/COMMUNITY MEDIATION CENTERS/WORTHLESS CHECK PROGRAMS**

**SECTION 31.24.(a)** G.S. 14-107.2 is amended by adding a new subsection to read:

"(b1) A community mediation center may establish and charge fees for its services in the collection of worthless checks as part of a program established under this section and may assist the Administrative Office of the Courts and district attorneys in the establishment of worthless check programs in any districts in which worthless check programs have not been established."

**SECTION 31.24.(b)** G.S. 7A-38.5(a) reads as rewritten:

"(a) The General Assembly finds that it is in the public interest to encourage the establishment of community mediation centers, also known as dispute settlement centers or dispute resolution centers, to support the work of these centers in facilitating communication, understanding, reconciliation, and settlement of conflicts in communities, courts, and schools, and to promote the widest possible use of these centers by the courts and law enforcement officials across the State. A center may establish and charge fees for its services."

**SECTION 31.24.(c)** G.S. 7A-38.6(a) reads as rewritten:

"(a) All community mediation centers ~~currently receiving State funds~~ shall report annually to the Mediation Network of North Carolina on the program's funding and activities, including:

(1) Types of dispute settlement services provided;
(2) Clients receiving each type of dispute settlement service;
(3) Number and type of referrals received, cases actually mediated (identified by docket number), cases resolved in mediation, and total clients served in the cases mediated;
(4) Total program funding and funding sources;
(5) Itemization of the use of funds, including operating expenses and personnel;
(6) Itemization of the use of State funds appropriated to the center;
(7) Level of volunteer activity; and
(8) Identification of future service demands and budget requirements.

(a1) The Mediation Network of North Carolina shall compile and summarize the information provided pursuant to ~~this subsection~~ subsection (a) of this section and shall provide the information to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year.

The Mediation Network of North Carolina shall also submit a copy of its report to the Administrative Office of the Courts. The receipt and review of this report by the Administrative Office of the Courts shall satisfy any program monitoring, evaluation, and contracting requirements imposed on the Administrative Office of the Courts by Part 3 of Article 6 of Chapter 143C of the General Statutes and any rules adopted under that Part."

**SECTION 31.24.(d)** G.S. 7A-38.7 reads as rewritten:

"**§ 7A-38.7. Dispute resolution fee for cases resolved in mediation.**

(a) In each criminal case filed in the General Court of Justice that is resolved through referral to a community mediation center, a dispute resolution fee shall be assessed in the sum of sixty dollars ($60.00) per mediation ~~for the support of the General Court of Justice.~~to support the services provided by the community mediation centers and the Mediation Network of North Carolina. Fees assessed under this section shall be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the ~~State Treasurer.~~Mediation Network of North Carolina. The Mediation Network may retain up to three dollars ($3.00) of this amount as an allowance for its administrative expenses. The Mediation Network must remit the remainder of this amount to the community mediation center that mediated the case.

(b) Before providing the district attorney with a dismissal form, the community mediation center shall require proof that the defendant has paid the dispute resolution fee as required by subsection (a) of this section and shall attach the receipt to the dismissal form."

**JPS/AOC/INCREASE INTERSTATE COMPACT FEE**

**SECTION 31.25.** G.S. 148-65.7(a) reads as rewritten:

"(a) Persons convicted in this State who make a request for transfer to another state pursuant to the compact shall pay a transfer application of ~~one~~ two hundred fifty dollars ~~($150.00)~~($250.00) for each transfer application submitted. The transfer application fee shall be paid to the Compact Commissioner upon submission of the transfer application. The Commissioner or the Commissioner's designee may waive the application fee if either the

Commissioner or the Commissioner's designee finds that payment of the fee will constitute an undue economic burden on the offender.

All fees collected pursuant to this section shall be deposited in the Interstate Compact Fund and shall be used only to support administration of the Interstate Compact.

The Interstate Compact Fund is established within the Department of Correction as a nonreverting, interest-bearing special revenue account. Accordingly, revenue in the Fund at the end of a fiscal year does not revert, and interest and other investment income earned by the Fund shall be credited to it. All moneys collected by the Department of Correction pursuant to this subsection shall be remitted to the State Treasurer to be deposited and held in this Fund. Moneys in the Fund shall be used to supplement funds otherwise available to the Department of Correction for the administration of the Interstate Compact."

**JPS/AOC/CONTINGENT COURT COST INCREASES FOR COUNTIES**

**SECTION 31.26.(a)** If House Bill 642 or other substantially similar legislation that requires a misdemeanant with a period of confinement of six months or less to serve the period in a local confinement facility becomes law, then G.S. 7A-304(a)(2) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

...

(2) For the use of the courtroom and related judicial facilities, the sum of ~~twelve~~ thirty dollars ~~($12.00)~~($30.00) in the district court, including cases before a magistrate, and the sum of thirty dollars ($30.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders and other personnel of the Office of Indigent Defense Services, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event the funds derived from the facilities fees exceed what is needed for these purposes, the county or municipality may use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such county, or to supplement the operations of the General Court of Justice in the county.

...."

**SECTION 31.26.(b)** If House Bill 642 or other substantially similar legislation that requires a misdemeanant with a period of confinement of six months or less to serve the period in a local confinement facility becomes law, then G.S. 7A-304(a) is amended by adding a new subdivision to read:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

...

(4b) To provide for contractual services to reduce county jail populations, the sum of fifty dollars ($50.00) for all offenses arising under Chapter 20 of the

General Statutes and resulting in a conviction of an improper equipment offense, to be remitted to the Department of Correction."

**SECTION 31.26.(c)** If House Bill 642 or other substantially similar legislation that requires a misdemeanant with a period of confinement of six months or less to serve the period in a local confinement facility becomes law, then G.S. 7A-311(a) reads as rewritten:

"(a) In a civil action or special proceeding, except for actions brought under Chapter 50B of the General Statutes, the following fees and commissions shall be assessed, collected, and remitted to the county:

(1) a. For each item of civil process served, including summons, subpoenas, notices, motions, orders, writs and pleadings, the sum of ~~fifteen~~ thirty dollars ~~($15.00).~~($30.00). When two or more items of civil process are served simultaneously on one party, only one ~~fifteen-dollar ($15.00)~~thirty-dollar ($30.00) fee shall be charged.

...."

**SECTION 31.26.(d)** If House Bill 642 or other substantially similar legislation that requires a misdemeanant with a period of confinement of six months or less to serve the period in a local confinement facility becomes law, then G.S. 7A-313 reads as rewritten:

**"§ 7A-313. Uniform jail fees.**

Persons who are lawfully confined in jail awaiting trial shall be liable to the county or municipality maintaining the jail in the sum of ~~five~~ ten dollars ~~($5.00)~~($10.00) for each 24 hours' confinement, or fraction thereof, except that a person so confined shall not be liable for this fee if the case or proceeding against him is dismissed, or if acquitted, or if judgment is arrested, or if probable cause is not found, or if the grand jury fails to return a true bill.

Persons who are ordered to pay jail fees pursuant to a probationary sentence shall be liable to the county or municipality maintaining the jail at the same per diem rate paid by the Department of Correction to local jails for maintaining a prisoner, as set by the General Assembly in its appropriations acts."

**SECTION 31.26.(e)** If House Bill 642 or other substantially similar legislation that requires a misdemeanant with a period of confinement of six months or less to serve the period in a local confinement facility becomes law, then G.S. 153A-225(a) reads as rewritten:

"(a) Each unit that operates a local confinement facility shall develop a plan for providing medical care for prisoners in the facility. The plan

(1) Shall be designed to protect the health and welfare of the prisoners and to avoid the spread of contagious disease;

(2) Shall provide for medical supervision of prisoners and emergency medical care for prisoners to the extent necessary for their health and welfare;

(3) Shall provide for the detection, examination and treatment of prisoners who are infected with tuberculosis or venereal diseases.

The unit shall develop the plan in consultation with appropriate local officials and organizations, including the sheriff, the county physician, the local or district health director, and the local medical society. The plan must be approved by the local or district health director after consultation with the area mental health, developmental disabilities, and substance abuse authority, if it is adequate to protect the health and welfare of the prisoners. Upon a determination that the plan is adequate to protect the health and welfare of the prisoners, the plan must be adopted by the governing body.

As a part of its plan, each unit may establish fees of not more than ~~ten dollars ($10.00)~~ twenty dollars ($20.00) per incident for the provision of nonemergency medical care to prisoners. In establishing fees pursuant to this section, each unit shall establish a procedure for waiving fees for indigent prisoners."

**LABORATORY FACILITIES FEE EXPANSION**

**SECTION 31.26A.** G.S. 7A-304(a)(7) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected, except that when the judgment imposes an active prison sentence, costs shall be assessed and collected only when the judgment specifically so provides, and that no costs may be assessed when a case is dismissed.

...

(7) For the services of the State Bureau of Investigation laboratory facilities or local law enforcement laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars ($600.00) to be remitted to the Department of Justice for support of the State Bureau of ~~Investigation.~~Investigation or to the local law enforcement laboratory that performed the analysis. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction.

...."

**GENGOV/INS/SET INSURANCE REGULATORY CHARGE**

**SECTION 31.27.(a)** The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six percent (6%) for the 2011 calendar year.

**SECTION 31.27.(b)** This section is effective when it becomes law.

**INVESTMENT COMPANY NOTICE FILING FEE**

**SECTION 31.27A.(a)** G.S. 78A-31(a) reads as rewritten:

"(a) The Administrator, by rule or order, may require the filing of any of the following documents with regard to a security (i) issued by an investment company that is registered or has filed a registration statement under the Investment Company Act of 1940 and (ii) covered under section 18(b)(2) of the Securities Act of 1933 (15 U.S.C. § 77r(b)(2)):

(1) Prior to the initial offer of the security in this State, all documents that are part of a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, or, in lieu thereof, a form prescribed by the Administrator, together with a consent to service of process signed by the issuer and with the payment of a notice filing fee ~~of two thousand dollars ($2,000).~~equal to the sum of one thousand seven hundred twenty-five dollars ($1,725) and two hundred seventy-five dollars ($275.00) for each series, fund, or portfolio offered in this State and listed in the federal registration statement.

(2) After the initial offer of the security in this State, all documents that are part of an amendment to a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, or, in lieu thereof, a form prescribed by the Administrator, which shall be filed concurrently with the Administrator.

(3) A report of the value of securities covered under federal law that are offered or sold in this State.

(4) A notice filing pursuant to this section shall expire on December 31 of each year or some other date not more than one year from its effective date as the Administrator may by rule or order provide. A notice filing of the offer of securities covered under federal law that are to be offered for a period in excess of one year shall be renewed annually by payment of a renewal fee ~~of two thousand dollars ($2,000)~~ equal to the sum of one thousand seven hundred twenty-five dollars ($1,725) and two hundred seventy-five dollars ($275.00) for each series, fund, or portfolio offered in this State and listed in the federal registration statement and by filing any documents and reports that the Administrator may by rule or order require consistent with this section. The renewal shall be effective upon the expiration of the prior notice period.

(5) A notice filed in accordance with this section may be amended after its effective date to increase the securities specified as proposed to be offered. An amendment becomes effective upon receipt by the Administrator. Every person submitting an amended notice filing shall pay a filing fee of fifty

dollars ($50.00) with respect to the additional securities proposed to be offered."

**SECTION 31.27A.(b)** This section becomes effective July 1, 2011, and applies to fees for filings due on or after that date.

**RAISE PARKING RATES**

**SECTION 31.27B.(a)** The Department of Administration shall raise visitor parking rates for lots it administers in the State Government Complex by one dollar ($1.00) per hour.

**SECTION 31.27B.(b)** Funds generated by subsection (a) of this section shall be used to support debt service associated with the Green Square Parking Lot authorized in S.L. 2008-107.

**STATEWIDE INFORMATION TECHNOLOGY PROCUREMENT**

**SECTION 31.27C.** Statewide Information Technology Procurement shall be funded through fees charged to agencies using Statewide Information Technology Procurement services. The Office of the State Chief Information Officer shall provide a fee schedule to allow cost recovery to the Office of State Budget and Management.

If agencies fail to pay for services within 30 days of billing, the Office of State Budget and Management shall transfer the unpaid amount to the State Information Technology Procurement Office.

**TRANSPORTATION/DIVISION OF MOTOR VEHICLES BULK DATA**

**SECTION 31.29.** G.S. 20-43.1 is amended by adding a new subsection to read:

"**§ 20-43.1. Disclosure of personal information in motor vehicle records.**

(a) The Division shall disclose personal information contained in motor vehicle records in accordance with the federal Driver's Privacy Protection Act of 1994, as amended, 18 U.S.C. §§ 2721, et seq.

(b) As authorized in 18 U.S.C. § 2721, the Division shall not disclose personal information for the purposes specified in 18 U.S.C. § 2721(b)(11).

(c) The Division shall not disclose personal information for the purposes specified in 18 U.S.C. § 2721(b)(12) unless the Division receives prior written permission from the person about whom the information is requested.

(d) As authorized in 18 U.S.C. § 2721, the Division may disclose personal information to federally designated organ procurement organizations and eye banks operating in this State for the purpose of identifying individuals who have indicated an intent to be an organ donor. Personal information authorized under this subsection is limited to the individual's first, middle, and last name, date of birth, address, sex, county of residence, and drivers license number. Employees of the Division who provide access to or disclosure of information in good-faith compliance with this subsection are not liable in damages for access to or disclosure of the information.

(e) As authorized in 18 U.S.C. § 2721, the Division may also provide copies of partial crash report data collected pursuant to G.S. 20-166.1, partial driver license data kept pursuant to G.S. 20-26(a), and partial vehicle registration application data collected pursuant to G.S. 20-52 in bulk form to persons, private companies, or other entities, for uses other than official, upon payment of a fee of three cents (3¢) per individual record. The Division shall not furnish such data except upon execution by the recipient of a written agreement to comply with the Driver's Privacy Protection Act of 1994, as amended, 18 U.S.C. §§ 2721, et seq. The information released to persons, private companies, or other entities, for uses other than official, pursuant to this subsection, shall not be a public record pursuant to Chapter 132 of the General Statutes."

**TRANSPORTATION/FERRY DIVISION TOLLING ON ALL ROUTES**

**SECTION 31.30.(a)** Effective April 1, 2012, G.S. 136-82 reads as rewritten:

"**§ 136-82. Department of Transportation to establish and maintain ferries.**

The Department of Transportation is vested with authority to provide for the establishment and maintenance of ferries connecting the parts of the State highway system, whenever in its discretion the public good may so require, and to prescribe and collect such tolls therefor as may, in the discretion of the Department of Transportation, be expedient. The Board of Transportation shall establish tolls for all ferry routes.

To accomplish the purpose of this section said Department of Transportation is authorized to acquire, own, lease, charter or otherwise control all necessary vessels, boats, terminals or other facilities required for the proper operation of such ferries or to enter into contracts with persons, firms or corporations for the operation thereof and to pay therefor such reasonable sums as may in the opinion of said Department of Transportation represent the fair value of the public service rendered.

The Department of Transportation, notwithstanding any other provision of law, may operate, or contract for the operation of, concessions on the ferries and at ferry facilities to provide to passengers on the ferries food, drink, and other refreshments, personal comfort items, and souvenirs publicizing the ferry system."

**SECTION 31.30.(b)** The Board of Transportation shall toll all ferry routes no later than the effective date of subsection (a) of this section but is encouraged to begin tolling on all routes before that date. In establishing tolls for ferry routes under G.S. 136-82, as amended by this section, the Board of Transportation shall consider the needs of commuters and other frequent passengers.

## PART XXXI-A. FINANCE PROVISIONS

## ENCOURAGE JOB GROWTH AND LONG-TERM ECONOMIC PROSPERITY BY TEMPORARILY REDUCING THE INCOME TAX BURDEN ON INDIVIDUALS AND SMALL BUSINESSES

**SECTION 31A.1.(a)** G.S. 105-134.1 reads as rewritten:

"**§ 105-134.1. Definitions.**

The following definitions apply in this Part:

(1) Adjusted gross income. – Defined in section 62 of the Code.

~~(1)~~(1a) Code. – Defined in G.S. 105-228.90.

(2) Department. – The Department of Revenue.

(3) Educational institution. – An educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(4) Fiscal year. – Defined in section 441(e) of the Code.

(5) Gross income. – Defined in section 61 of the Code.

(6) Head of household. – Defined in section 2(b) of the Code.

(7) Individual. – A human being.

(7a) Limited liability company. – Either a domestic limited liability company organized under Chapter 57C of the General Statutes or a foreign limited liability company authorized by that Chapter to transact business in this State that is classified for federal income tax purposes as a partnership. As applied to a limited liability company that is a partnership under this Part, the term "partner" means a member of the limited liability company.

(7b) Repealed by Session Laws 1998-98, s. 9.

(8) Married individual. – An individual who is married and is considered married as provided in section 7703 of the Code.

(9) Nonresident individual. – An individual who is not a resident of this State.

(10) North Carolina taxable income. – Defined in G.S. 105-134.5.

(10a) Partnership. – A domestic partnership, a foreign partnership, or a limited liability company.

(11) Person. – Defined in G.S. 105-228.90.

(12) Resident. – An individual who is domiciled in this State at any time during the taxable year or who resides in this State during the taxable year for other than a temporary or transitory purpose. In the absence of convincing proof to the contrary, an individual who is present within the State for more than 183 days during the taxable year is presumed to be a resident, but the absence of an individual from the state for more than 183 days raises no presumption that the individual is not a resident. A resident who removes from the State during a taxable year is considered a resident until he has both established a definite domicile elsewhere and abandoned any domicile in this State. The fact of marriage does not raise any presumption as to domicile or residence.

(13) Retirement benefits. – Amounts paid to a former employee or the beneficiary of a former employee under a written retirement plan established by the employer to provide payments to an employee or the beneficiary of an employee after the end of the employee's employment with the employer where the right to receive the payments is based upon the employment relationship. With respect to a self-employed individual or the beneficiary of a self-employed individual, the term means amounts paid to the individual or beneficiary of the individual under a written retirement plan established by the individual to provide payments to the individual or the beneficiary of the individual after the end of the self-employment. In addition, the term includes amounts received from an individual retirement account described in section 408 of the Code or from an individual retirement annuity described in section 408 of the Code. For the purpose of this subdivision, the term "employee" includes a volunteer worker.

(14) S Corporation. – Defined in G.S. 105-131(b).

(15) Secretary. – The Secretary of Revenue.

~~(16) Taxable income. – Defined in section 63 of the Code.~~

(17) Taxable year. – Defined in section 441(b) of the Code.

(18) Taxpayer. – An individual subject to the tax imposed by this Part.

~~(19) This State. – The State of North Carolina.~~"

**SECTION 31A.1.(b)** G.S. 105-134.2 reads as rewritten:

"**§ 105-134.2. Individual income tax imposed.**

(a) Tax. – ~~A tax is imposed upon the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually and shall be computed at the following percentages of the taxpayer's North Carolina taxable income.~~A tax is imposed for each taxable year on the North Carolina taxable income of an individual. The tax is computed at the following percentages of the taxpayer's North Carolina taxable income:

(1) For married individuals who file a joint return under G.S. 105-152 and for surviving spouses, as defined in section 2(a) of the Code:

| Over | Up To | Rate |
|---|---|---|
| 0 | $21,250 | ~~6%~~5.75% |
| $21,250 | $100,000 | ~~7%~~6.75% |
| $100,000 | NA | ~~7.75%~~7.5% |

(2) For heads of households, as defined in section 2(b) of the Code:

| Over | Up To | Rate |
|---|---|---|
| 0 | $17,000 | ~~6%~~5.75% |
| $17,000 | $80,000 | ~~7%~~6.75% |
| $80,000 | NA | ~~7.75%~~7.5% |

(3) For unmarried individuals other than surviving spouses and heads of households:

| Over | Up To | Rate |
|---|---|---|
| 0 | ~~$12,750~~$10,625 | ~~6%~~5.75% |
| ~~$12,750~~$10,625 | ~~$60,000~~$50,000 | ~~7%~~6.75% |
| ~~$60,000~~$50,000 | NA | ~~7.75%~~7.5% |

(4) For married individuals who do not file a joint return under G.S. 105-152:

| Over | Up To | Rate |
|---|---|---|
| 0 | $10,625 | ~~6%~~5.75% |
| $10,625 | $50,000 | ~~7%~~6.75% |
| $50,000 | NA | ~~7.75%~~7.5% |

(b) Withholding Tables. – The Secretary may provide tables that compute the amount of tax due for a taxable year under this Part. ~~In lieu of the tax imposed by subsection (a) of this~~

~~section, there is imposed for each taxable year upon the North Carolina taxable income of every individual a tax determined under tables, applicable to the taxable year, which may be prescribed by the Secretary. The amounts of the tax determined under the tables shall be computed on the basis of the rates prescribed by subsection (a) of this section. This subsection does~~ The tables do not apply to an individual ~~making~~ who files a return under section 443(a)(1) of the Code for a period of less than 12 months ~~on account of~~ due to a change in the individual's annual accounting period, or to an estate or trust. ~~The tax imposed by this subsection shall be treated as the tax imposed by subsection (a) of this section.~~"

**SECTION 31A.1.(c)** G.S. 105-134.5 reads as rewritten:

"**§ 105-134.5. North Carolina taxable income defined.**

(a) Residents. – For ~~residents of this State,~~ an individual who is a resident of this State, the term "North Carolina taxable income" means the taxpayer's ~~taxable income as determined under the Code, adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7.~~adjusted gross income as modified in G.S. 105-134.6.

(b) Nonresidents. – For a nonresident ~~individuals,~~ individual, the term "North Carolina taxable income" means the taxpayer's ~~taxable income as determined under the Code, adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, multiplied by a fraction the denominator of which is the taxpayer's gross income as determined under the Code, adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, and the numerator of which is the amount of that gross income, as adjusted,~~ adjusted gross income as modified in G.S. 105-134.6, multiplied by a fraction the denominator of which is the taxpayer's adjusted gross income as modified in G.S. 105-134.6, and the numerator of which is the amount of that adjusted gross income, as modified, that is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State, is derived from a business, trade, profession, or occupation carried on in this State, or is derived from gambling activities in this State.

(c) Part-year Residents. – If an individual was a resident of this State for only part of the taxable year, having moved into or removed from the State during the year, the term "North Carolina taxable income" has the same meaning as in subsection (b) of this section except that the numerator ~~shall include gross income, adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7,~~ includes adjusted gross income, as modified, derived from all sources during the period the individual was a resident.

(d) S Corporations and Partnerships. – In order to calculate the numerator of the fraction provided in subsection ~~(b),~~(b) of this section, the amount of a shareholder's pro rata share of S Corporation income that is includable in the numerator ~~shall be~~ is the shareholder's pro rata share of the S Corporation's income attributable to the State, as defined in G.S. 105-131(b)(4). In order to calculate the numerator of the fraction provided in subsection (b) of this section for a member of a partnership or other unincorporated business ~~with~~ that has one or more nonresident members ~~that~~ and operates in one or more other states, the amount of the member's distributive share of income of the business that is includable in the numerator ~~shall be~~ is determined by multiplying the total net income of the business by the ratio ascertained under the provisions of G.S. 105-130.4. As used in this subsection, total net income means the entire gross income of the business less all expenses, taxes, interest, and other deductions allowable under the Code ~~which~~ that were incurred in the operation of the business.

(e) Tax Year. – A taxpayer must compute North Carolina taxable income on the basis of the taxable year used in computing the taxpayer's income tax liability under the Code."

**SECTION 31A.1.(d)** G.S. 105-134.6 reads as rewritten:

"**§ 105-134.6. ~~Adjustments to taxable income.~~Modifications to adjusted gross income.**

(a) Personal Exemption. – In calculating North Carolina taxable income, a taxpayer may deduct an exemption amount equal to the amount listed in the table below based on the taxpayer's filing status and adjusted gross income. The taxpayer is allowed the same number of personal exemptions claimed under section 151 of the Code for the taxable year.

| Filing Status | Adjusted Gross Income | Personal Exemption |
|---|---|---|
| Married, filing jointly | Up to $100,000 | $2,500 |
| | Over $100,000 | $2,000 |
| Head of Household | Up to $80,000 | $2,500 |
| | Over $80,000 | $2,000 |
| Single | Up to $60,000 | $2,500 |

| | | |
|---|---|---|
| | Over $60,000 | $2,000 |
| Married, filing separately | Up to $50,000 | $2,500 |
| | Over $50,000 | $2,000 |

(b) Standard Deduction. – In calculating North Carolina taxable income, a taxpayer may deduct the standard deduction amount listed in the table below for that taxpayer's filing status or deduct the itemized deduction amounts provided in subsection (c) of this section. A taxpayer may not deduct both the standard deduction amount allowed under this subsection and the itemized deductions allowed under subsection (c) of this section. The Secretary must publish the standard deduction amounts set under this subsection.

| Filing Status | Standard Deduction |
|---|---|
| Married, filing jointly | $6,000 |
| Head of Household | 4,400 |
| Single | 3,000 |
| Married, filing separately | 3,000. |

(c) Itemized Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct the amounts allowed under this subsection or the standard deduction amount provided in subsection (b) of this section. A taxpayer may not deduct both the amounts allowed under this subsection and the standard deduction amount allowed under subsection (b) of this section.

(1) Medical expenses. – An amount equal to the amount the taxpayer deducted under section 213 of the Code for medical expenses paid during the taxable year.

(2) Home mortgage interest. – An amount equal to the amount the taxpayer deducted under section 163 of the Code for interest paid or accrued during the taxable year on acquisition indebtedness or home equity indebtedness.

(3) Charitable contributions. – An amount equal to the amount the taxpayer deducted under section 170 of the Code for charitable contributions made during the taxable year.

(d) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of any of the following:
   a. The United States or its possessions.
   b. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.
   c. A nonprofit educational institution organized or chartered under the laws of this State.

(2) Gain from the disposition of obligations issued before July 1, 1995, to the extent the gain is exempt from tax under the laws of this State.

(3) Amounts received under Title II of the Social Security Act and amounts received from retirement annuities or pensions paid under the provisions of the Railroad Retirement Act of 1937.

(4) Refunds of State, local, and foreign income taxes.

(5) The amount received during the taxable year from one or more State, local, or federal government retirement plans to the extent the amount is exempt from tax under this Part pursuant to a court order in settlement of any of the following cases:
   a. Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS 8230.
   b. Emory v. State, 98 CVS 0738.
   c. Patton v. State, 95 CVS 04346.

(6) An amount of benefits received from one or more retirement plans during the taxable year. The maximum amount allowed to be deducted under this subdivision may not exceed four thousand dollars ($4,000). In the case of a married couple filing a joint return where both spouses received retirement benefits during the taxable year, the maximum dollar amounts apply

separately to each spouse's benefits. The amount of retirement benefits received in a taxable year is the sum of the following:

a. The amount received during the taxable year from one or more State, local, or federal government retirement plans.

b. The amount received during the taxable year from one or more retirement plans other than State, local, or federal government retirement plans. The maximum amount allowed under this sub-subdivision in any taxable year is two thousand dollars ($2,000).

(7) Income that meets both of the following requirements:

a. Is earned or received by an enrolled member of a federally recognized Indian tribe.

b. Is derived from activities on a federally recognized Indian reservation while the member resides on the reservation. Income from intangibles having a situs on the reservation and retirement income associated with activities on the reservation are considered income derived from activities on the reservation.

(8) The amount by which the basis of property under this Article exceeds the basis of the property under the Code, in the year the taxpayer disposes of the property.

(9) The amount paid to the taxpayer by the State under G.S. 148-84 as compensation for pecuniary loss suffered by reason of erroneous conviction and imprisonment.

(10) The amount contributed to an account in the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25. The maximum amount allowed to be deducted under this subdivision may not exceed two thousand five hundred dollars ($2,500). In the case of a married couple filing a joint return, the maximum dollar amount of the deduction is five thousand dollars ($5,000).

(11) If a taxpayer is an eligible firefighter or an eligible rescue squad worker, the sum of two hundred fifty dollars ($250.00). In the case of a married couple filing a joint return, each spouse may qualify separately for the deduction allowed under this subdivision. In order to claim the deduction allowed under this subdivision, the taxpayer must submit with the tax return any documentation required by the Secretary. An individual may not claim a deduction as both an eligible firefighter and as an eligible rescue squad worker in a single taxable year. The following definitions apply in this subdivision:

a. Eligible firefighter. – An unpaid member of a volunteer fire department who attended at least 36 hours of fire department drills and meetings during the taxable year.

b. Eligible rescue squad worker. – An unpaid member of a volunteer rescue or emergency medical services squad who attended at least 36 hours of rescue squad training and meetings during the taxable year.

(12) The amount paid to the taxpayer during the taxable year from the Disaster Relief Reserve Fund in the Office of State Budget and Management for hurricane relief or assistance, but not including payments for goods or services provided by the taxpayer.

(13) The first fifty thousand dollars ($50,000) of net business income the taxpayer receives during the taxable year from a small business. A small business is a business whose cumulative gross receipts from all business activity in a taxable year does not exceed eight hundred twenty-five thousand dollars ($825,000). For purposes of this subdivision, the term "business income" does not include income that is considered passive income under the Code. This subdivision expires for taxable years beginning on or after January 1, 2014.

(14) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (b)(6) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable

years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012. For the amount added to taxable income in the 2012 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2013.

(15) An amount equal to twenty percent (20%) of the amount added to federal taxable income under subdivision (b)(7) of this section. For the amount added to taxable income in the 2010 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2011. For the amount added to taxable income in the 2011 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2012.

(e) Additions. – In calculating North Carolina taxable income, a taxpayer must add to the taxpayer's adjusted gross income any of the following items that are not included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of states other than this State, political subdivisions of those states, and agencies of those states and their political subdivisions.

(2) The amount by which a shareholder's share of S Corporation income is reduced under section 1366(f)(2) of the Code for the taxable year by the amount of built-in gains tax imposed on the S Corporation under section 1374 of the Code.

(3) The amount by which the basis of property under the Code exceeds the basis of the property under this Article, in the year the taxpayer disposes of the property.

(4) The amount excluded from gross income under section 199 of the Code.

(5) The amount deducted in a prior taxable year under subdivision (a)(10) of this section to the extent this amount was withdrawn from the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25 and not used to pay for the qualified higher education expenses of the designated beneficiary, unless the withdrawal was made without penalty under section 529 of the Code due to the death or permanent disability of the designated beneficiary.

(6) The market price of the gleaned crop for which the taxpayer claims a credit for the taxable year under G.S. 105-151.14.

(7) The amount of a donation made to a nonprofit organization or a unit of State or local government for which a credit is claimed under G.S. 105-129.16H.

(8) For taxable years 2010 through 2012, eighty-five percent (85%) of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service during the taxable year. In addition, for taxable year 2010, a taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.

(9) For taxable years 2010 and 2011, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code for property placed in service in taxable year 2010 or 2011 exceeds the amount that would have been allowed for the respective taxable year under section 179 of the Code as of May 1, 2010. For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.

~~(a) S Corporations. Each shareholder's pro rata share of an S Corporation's income is subject to the adjustments provided in this section.~~

~~(b) Deductions. The following deductions from taxable income shall be made in calculating North Carolina taxable income, to the extent each item is included in taxable income:~~

~~(1) Interest upon the obligations of any of the following:~~
~~a. The United States or its possessions.~~
~~b. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.~~
~~c. A nonprofit educational institution organized or chartered under the laws of this State.~~

~~(2) Gain from the disposition of obligations issued before July 1, 1995, to the extent the gain is exempt from tax under the laws of this State.~~

~~(3) Benefits received under Title II of the Social Security Act and amounts received from retirement annuities or pensions paid under the provisions of the Railroad Retirement Act of 1937.~~

~~(4) Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 1002, s. 2.~~

~~(5) Refunds of state, local, and foreign income taxes included in the taxpayer's gross income.~~

~~(5a) Reserved.~~

~~(5b) The amount received during the taxable year from one or more State, local, or federal government retirement plans to the extent the amount is exempt from tax under this Part pursuant to a court order in settlement of the following cases: Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS 8230; Emory v. State, 98 CVS 0738; and Patton v. State, 95 CVS 04346. Amounts deducted under this subdivision may not also be deducted under subdivision (6) of this subsection.~~

~~(6) a. An amount, not to exceed four thousand dollars ($4,000), equal to the sum of the amount calculated in subparagraph b. plus the amount calculated in subparagraph c.~~
~~b. The amount calculated in this subparagraph is the amount received during the taxable year from one or more state, local, or federal government retirement plans.~~
~~c. The amount calculated in this subparagraph is the amount received during the taxable year from one or more retirement plans other than state, local, or federal government retirement plans, not to exceed a total of two thousand dollars ($2,000) in any taxable year.~~
~~d. In the case of a married couple filing a joint return where both spouses received retirement benefits during the taxable year, the maximum dollar amounts provided in this subdivision for various types of retirement benefits apply separately to each spouse's benefits.~~

~~(7) Recodified as G.S. 105-134.6(d)(1).~~

~~(8) Recodified as G.S. 105-134.6(d)(2).~~

~~(9) Income that is (i) earned or received by an enrolled member of a federally recognized Indian tribe and (ii) derived from activities on a federally recognized Indian reservation while the member resides on the reservation. Income from intangibles having a situs on the reservation and retirement income associated with activities on the reservation are considered income derived from activities on the reservation.~~

~~(10) The amount by which the basis of property under this Article exceeds the basis of the property under the Code, in the year the taxpayer disposes of the property.~~

~~(11) Severance wages received by a taxpayer from an employer as the result of the taxpayer's permanent, involuntary termination from employment through no fault of the employee. The amount of severance wages deducted as the result of the same termination may not exceed thirty-five thousand dollars ($35,000) for all taxable years in which the wages are received.~~

~~(12) Repealed by Session Laws 1998-171, s. 2, effective October 1, 1998.~~

~~(13) Repealed by Session Laws 2002-126, s. 30C.4, effective for taxable years beginning on or after January 1, 2002.~~

~~(14) The amount paid to the taxpayer by the State under G.S. 148-84 as compensation for pecuniary loss suffered by reason of erroneous conviction and imprisonment.~~

~~(15) Interest, investment earnings, and gains of a trust, the settlors of which are two or more manufacturers that signed a settlement agreement with this State to settle existing and potential claims of the State against the manufacturers for damages attributable to a product of the manufacturers, if the trust meets all of the following conditions:~~

~~a. The purpose of the trust is to address adverse economic consequences resulting from a decline in demand of the manufactured product potentially expected to occur because of market restrictions and other provisions in the settlement agreement.~~

~~b. A court of this State approves and retains jurisdiction over the trust.~~

~~c. Certain portions of the distributions from the trust are made in accordance with certifications that meet the criteria in the agreement creating the trust and are provided by a nonprofit entity, the governing board of which includes State officials.~~

~~(16) The amount paid to the taxpayer during the taxable year from the Hurricane Floyd Reserve Fund in the Office of State Budget and Management for hurricane relief or assistance, but not including payments for goods or services provided by the taxpayer.~~

~~(17) In each of the taxpayer's first five taxable years beginning on or after January 1, 2005, an amount equal to twenty percent (20%) of the amount added to taxable income in a previous year as accelerated depreciation under subdivision (c)(8) of this section.~~

~~(17a) An amount equal to twenty percent (20%) of the amount added to federal taxable income as accelerated depreciation under subdivision (c)(8a) of this section. For a taxpayer who made the addition for accelerated depreciation in the 2008 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2009. For a taxpayer who made the addition for accelerated depreciation in the 2009 taxable year, the deduction allowed by this subdivision applies to the first five taxable years beginning on or after January 1, 2010.~~

~~(18) The amount paid to the taxpayer during the taxable year from the Disaster Relief Reserve Fund in the Office of State Budget and Management for hurricane relief or assistance, but not including payments for goods or services provided by the taxpayer.~~

~~(19) Five percent (5%) of the gross purchase price of a qualified sale of a manufactured home community. A qualified sale is a transfer of land comprising a manufactured home community in a single purchase to a group composed of a majority of the manufactured home community leaseholders or to a nonprofit organization that represents such a group. To be eligible for this deduction, a taxpayer must give notice of the sale to the North Carolina Housing Finance Agency under G.S. 42-14.3.~~

~~(20) The amount added to federal taxable income as deferred income under section 108(i)(1) of the Code. This deduction applies to taxable years beginning on or after January 1, 2014.~~

~~(c) Additions. The following additions to taxable income shall be made in calculating North Carolina taxable income, to the extent each item is not included in taxable income:~~

~~(1) Interest upon the obligations of states other than this State, political subdivisions of those states, and agencies of those states and their political subdivisions.~~

~~(2) Any amount allowed as a deduction from gross income under the Code that is taxed under the Code by a separate tax other than the tax imposed in section 1 of the Code.~~

~~(3) Any amount deducted from gross income under section 164 of the Code as state, local, or foreign income tax or as state or local general sales tax to the extent that the taxpayer's total itemized deductions deducted under the Code for the taxable year exceed the standard deduction allowable to the taxpayer under the Code reduced by the amount the taxpayer is required to add to taxable income under subdivision (4) of this subsection.~~

~~(3a) The amount by which a shareholder's share of S Corporation income is reduced under section 1366(f)(2) of the Code for the taxable year by the amount of built in gains tax imposed on the S Corporation under section 1374 of the Code.~~

~~(4) The amount by which the taxpayer's additional standard deduction for aged and blind has been increased for inflation under section 63(c)(4)(A) of the Code plus the amount by which the taxpayer's basic standard deduction, including adjustments for inflation, under the Code exceeds the appropriate amount in the following chart based on the taxpayer's filing status:~~

| ~~Filing Status~~ | ~~Standard Deduction~~ |
|---|---|
| ~~Married filing jointly/Surviving Spouse~~ | ~~$6,000~~ |
| ~~Head of Household~~ | ~~4,400~~ |
| ~~Single~~ | ~~3,000~~ |
| ~~Married filing separately~~ | ~~3,000~~ |

~~(4a) The amount by which each of the taxpayer's personal exemptions has been increased for inflation under section 151(d)(4)(A) of the Code. This amount is reduced by five hundred dollars ($500.00) for each personal exemption if the taxpayer's adjusted gross income (AGI), as calculated under the Code, is less than the following amounts:~~

| ~~Filing Status~~ | ~~AGI~~ |
|---|---|
| ~~Married, filing jointly~~ | ~~$100,000~~ |
| ~~Head of Household~~ | ~~80,000~~ |
| ~~Single~~ | ~~60,000~~ |
| ~~Married, filing separately~~ | ~~50,000.~~ |

~~For the purposes of this subdivision, if the taxpayer's personal exemptions have been reduced by the applicable percentage under section 151(d)(3) of the Code, the amount by which the personal exemptions have been increased for inflation is also reduced by the applicable percentage.~~

~~(5) The market price of the gleaned crop for which the taxpayer claims a credit for the taxable year under G.S. 105-151.14.~~

~~(5a) The market price of the oyster shells for which the taxpayer claims a credit for the taxable year under G.S. 105-151.30.~~

~~(5b) The amount of a donation made to a nonprofit organization or a unit of State or local government for which a credit is claimed under G.S. 105-129.16H.~~

~~(6) The amount by which the basis of property under the Code exceeds the basis of the property under this Article, in the year the taxpayer disposes of the property.~~

~~(7) The amount of federal estate tax that is attributable to an item of income in respect of a decedent and is deducted from gross income under section 691(c) of the Code.~~

~~(8) For taxable years 2002-2005, the applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code, as set out in the table below. In addition, a taxpayer who was allowed a special accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes. The applicable percentage is as follows:~~

| ~~Taxable Year~~ | ~~Percentage~~ |
|---|---|

| | |
|---|---|
| 2002 | 100% |
| 2003 | 70% |
| 2004 | 70% |
| 2005 and thereafter | 0% |

(8a) The applicable percentage of the amount allowed as a special accelerated depreciation deduction under section 168(k) or 168(n) of the Code for property placed in service after December 31, 2007, but before January 1, 2010. The applicable percentage under this subdivision is eighty-five percent (85%).

In addition, a taxpayer who was allowed a special accelerated depreciation deduction in taxable year 2007 or 2008 for property placed in service during that year, and whose North Carolina taxable income for that year reflected that accelerated depreciation deduction must make the adjustments set out below. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.

a. A taxpayer must add to federal taxable income in the taxpayer's 2008 taxable year an amount equal to the applicable percentage of the accelerated depreciation deduction reflected in the taxpayer's 2007 North Carolina taxable income.

b. A taxpayer must add to federal taxable income in the taxpayer's 2009 taxable year an amount equal to the applicable percentage of the accelerated depreciation deduction reflected in the taxpayer's 2008 North Carolina taxable income.

(9) Repealed by Session Laws 2006-220, s. 3, effective for taxable years beginning on and after January 1, 2007.

(10) The amount excluded from gross income under section 199 of the Code.

(11) The amount of the taxpayer's real property tax deduction under section 63(c)(1)(C) of the Code.

(12) The amount of the taxpayer's deduction for motor vehicle sales taxes under section 164(a)(6) or section 63(c)(1)(E) of the Code.

(13) The amount of income deferred under section 108(i)(1) of the Code from the discharge of indebtedness in connection with a reacquisition of an applicable debt instrument.

(14) The amount allowed as a deduction under section 163(e)(5)(F) of the Code for an original issue discount on an applicable high yield discount obligation.

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

(1) The amount of inheritance or estate tax attributable to an item of income in respect of a decedent required to be included in gross income under the Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and 105-134.7, may be deducted in the year the item of income is included. The amount of inheritance or estate tax attributable to an item of income in respect of a decedent is (i) the amount by which the inheritance or estate tax paid under Article 1 or 1A of this Chapter on property transferred to a beneficiary by a decedent exceeds the amount of the tax that would have been payable by the beneficiary if the item of income in respect of a decedent had not been included in the property transferred to the beneficiary by the decedent, (ii) multiplied by a fraction, the numerator of which is the amount required to be included in gross income for the taxable year under the Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and 105-134.7, and the denominator of which is the total amount of income in respect of a decedent transferred to the beneficiary by the decedent. For an estate or trust, the deduction allowed by this subdivision shall be computed by excluding from the gross income of the estate or trust the portion, if any, of the items of income in respect of a decedent that are properly paid, credited, or to be distributed to the beneficiaries during the taxable year.

The Secretary may provide to a beneficiary of an item of income in respect of a decedent any information contained on an inheritance or estate

~~tax return that the beneficiary needs to compute the deduction allowed by this subdivision.~~

~~(2) The taxpayer may deduct the amount by which the taxpayer's deductions allowed under the Code were reduced, and the amount of the taxpayer's deductions that were not allowed, because the taxpayer elected a federal tax credit in lieu of a deduction. This deduction is allowed only to the extent that a similar credit is not allowed by this Chapter for the amount.~~

~~(3) The taxpayer shall add to taxable income the amount of any recovery during the taxable year not included in taxable income, to the extent the taxpayer's deduction of the recovered amount in a prior taxable year reduced the taxpayer's tax imposed by this Part but, due to differences between the Code and this Part, did not reduce the amount of the taxpayer's tax imposed by the Code. The taxpayer may deduct from taxable income the amount of any recovery during the taxable year included in taxable income under section 111 of the Code, to the extent the taxpayer's deduction of the recovered amount in a prior taxable year reduced the taxpayer's tax imposed by the Code but, due to differences between the Code and this Part, did not reduce the amount of the taxpayer's tax imposed by this Part.~~

~~(4) A taxpayer may deduct from taxable income the amount, not to exceed two thousand five hundred dollars ($2,500), contributed to an account in the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25. In the case of a married couple filing a joint return, the maximum dollar amount of the deduction is five thousand dollars ($5,000).~~

~~(5) The taxpayer shall add to taxable income the amount deducted from taxable income in a prior taxable year under subdivision (4) of this subsection to the extent this amount was withdrawn from the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25 and not used to pay for the qualified higher education expenses of the designated beneficiary, unless the withdrawal was made without penalty under section 529 of the Code due to the death or permanent disability of the designated beneficiary.~~

~~(6) A taxpayer who is an eligible firefighter or an eligible rescue squad worker may deduct from taxable income the sum of two hundred fifty dollars ($250.00). In the case of a married couple filing a joint return, each spouse may qualify separately for the deduction allowed under this subdivision. In order to claim the deduction allowed under this subdivision, the taxpayer must submit with the tax return any documentation required by the Secretary. An individual may not claim a deduction as both an eligible firefighter and as an eligible rescue squad worker in a single taxable year. The following definitions apply in this subdivision:~~

~~a. Eligible firefighter. An unpaid member of a volunteer fire department who attended at least 36 hours of fire department drills and meetings during the taxable year.~~

~~b. Eligible rescue squad worker. An unpaid member of a volunteer rescue or emergency medical services squad who attended at least 36 hours of rescue squad training and meetings during the taxable year.~~

~~(7) The taxpayer shall add to taxable income the amounts listed in this subdivision. An addition is not required under this subdivision for a net operating loss deduction of an eligible small business as defined under section 172(b)(1)(H) of the Code. The amounts are:~~

~~a. For taxable years 2003, 2004, and 2005, the amount of any 2008 net operating loss deduction claimed on a federal return under section 172(b)(1)(H) or section 810(b)(4) of the Code.~~

~~b. For taxable years 2004, 2005, and 2006, the amount of any 2009 net operating loss deduction claimed on a federal return under section 172(b)(1)(H) or section 810(b)(4) of the Code.~~

~~(8) For taxable years 2011 through 2013, a taxpayer who made an addition under subdivision (7) of this subsection may deduct one third of the~~

~~taxpayer's net operating loss absorbed on the taxpayer's 2003, 2004, 2005, and 2006 federal returns under section 172(b)(1)(H) or section 810(b)(4) of the Code.~~"

**SECTION 31A.1.(e)** G.S. 105-151.26 reads as rewritten:

"**§ 105-151.26. Credit for charitable contributions by nonitemizers.**

A taxpayer who elects the standard deduction under ~~section 63 of the Code for federal tax purposes~~ G.S. 105-134.6(b) is allowed as a credit against the tax imposed by this Part an amount equal to seven percent (7%) of the taxpayer's excess charitable contributions. The taxpayer's excess charitable contributions are the amount by which the taxpayer's charitable contributions for the taxable year that would have been deductible under ~~section 170 of the Code~~ G.S. 105-134.6(c)(3) if the taxpayer had not elected the standard deduction exceed two percent (2%) of the taxpayer's adjusted gross ~~income as calculated under the Code.~~income.

~~No credit shall be allowed under this section for amounts deducted from gross income in calculating taxable income under the Code or for contributions for which a credit was claimed under G.S. 105-151.12 or G.S. 105-151.14.~~ A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

**SECTION 31A.1.(f)** Effective for taxable years beginning on or after January 1, 2014, G.S. 105-134.6(a), as amended by subsection (a) of this section, reads as rewritten:

"(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of an individual. The tax is computed at the following percentages of the taxpayer's North Carolina taxable income:

(1) For married individuals who file a joint return under G.S. 105-152 and for surviving spouses, as defined in section 2(a) of the Code:

| Over | Up To | Rate |
|---|---|---|
| 0 | $21,250 | ~~5.75%~~6% |
| $21,250 | $100,000 | ~~6.75%~~7% |
| $100,000 | NA | ~~7.5%~~7.75% |

(2) For heads of households, as defined in section 2(b) of the Code:

| Over | Up To | Rate |
|---|---|---|
| 0 | $17,000 | ~~5.75%~~6% |
| $17,000 | $80,000 | ~~6.75%~~7% |
| $80,000 | NA | ~~7.5%~~7.75% |

(3) For unmarried individuals other than surviving spouses and heads of households:

| Over | Up To | Rate |
|---|---|---|
| 0 | $10,625 | ~~5.75%~~6% |
| $10,625 | $50,000 | ~~6.75%~~7% |
| $50,000 | NA | ~~7.5%~~7.75% |

(4) For married individuals who do not file a joint return under G.S. 105-152:

| Over | Up To | Rate |
|---|---|---|
| 0 | $10,625 | ~~5.75%~~6% |
| $10,625 | $50,000 | ~~6.75%~~7% |
| $50,000 | NA | ~~7.5%~~7.75%" |

**SECTION 31A.1.(g)** Except as otherwise provided, this section becomes effective for taxable years beginning on or after January 1, 2012.

**ELIMINATE DEDUCTION FOR SEVERANCE WAGES AND CREDIT FOR OYSTER SHELLS**

**SECTION 31A.2.(a)** G.S. 105-134.6(b)(11) and (b)(19), G.S. 105-130.48, and G.S. 105-151.30 are repealed.

**SECTION 31A.2.(b)** This section becomes effective for taxable years beginning on or after January 1, 2011.

**ELIMINATE SALES TAX EXEMPTION FOR CERTAIN NUTRITIONAL SUPPLEMENTS AND THE ENERGY STAR SALES TAX HOLIDAY**

**SECTION 31A.3.(a)** G.S. 105-164.13(13c) and G.S. 105-164.13D are repealed.

**SECTION 31A.3.(b)** G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13, the State sales and use tax ~~holidays~~ holiday contained in G.S. ~~105-164.13C and G.S. 105-164.13D,~~105-164.13C, and the State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by the entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the entity and is being erected, altered, or repaired for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. A request for a refund shall be in writing and shall include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the entity's fiscal year. Refunds applied for more than three years after the due date are barred."

**SECTION 31A.3.(c)** This section becomes effective October 1, 2011, and applies to sales made on or after that date.

## PART XXXII. MISCELLANEOUS PROVISIONS

**STATE BUDGET ACT APPLIES**

**SECTION 32.1.** The provisions of the State Budget Act, Chapter 143C of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

**MOST TEXT APPLIES ONLY TO THE 2011-2013 FISCAL BIENNIUM**

**SECTION 32.2.** Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2011-2013 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2011-2013 fiscal biennium.

**EFFECT OF HEADINGS**

**SECTION 32.3.** The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a part.

**COMMITTEE REPORT**

**SECTION 32.4.(a)** The Senate Appropriations Committee Report on the Continuation, Expansion, and Capital Budgets dated May 26, 2011, which was distributed in the Senate and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

**SECTION 32.4.(b)** The budget enacted by the General Assembly is for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2011-2013 biennial budget as provided in G.S. 143C-3-5. This budget includes the appropriations of State funds as defined in G.S. 143C-1-1(d)(25).

The Director of the Budget submitted a recommended continuation budget to the General Assembly on February 15, 2011, in the document "The State of North Carolina Governor's Recommended Budget, 2011-2013" and in the Budget Support Document for the various departments, institutions, and other spending agencies of the State. The adjustments to these documents made by the General Assembly are set out in the Committee Report.

**SECTION 32.4.(c)** The budget enacted by the General Assembly shall also be interpreted in accordance with G.S. 143C-5-5, the special provisions in this act, and other appropriate legislation.

In the event that there is a conflict between the line-item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

**SEVERABILITY CLAUSE**

**SECTION 32.5.** If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

**EFFECTIVE DATE**

**SECTION 32.6.** Except as otherwise provided, this act becomes effective July 1, 2011.

## VISITOR REGISTRATION SHEET

Approp. Subcommittee on Education/Higher Education
~~House and Senate Finance Committee~~
**Name of Committee**

~~Feb. 3, 2011~~ May 24, 2011
**Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM**

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Meredith Anderson | NCCIU |
| Katherine Joyce | NCASA |
| Leanne Winner | NCSBA |
| Susan Garner | NCNA TA |
| [illegible] | NCICU |
| Christopher Jones | OSBM |
| Dawn Shephard Pope | Office of the Governor |
| John Pruette | DPI |
| [illegible] | OSBM |
| Joyce Wallace | OSBM |
| Elizabeth Hovenstine | OSBM |
| Bryan Conrad | OSBM |

## VISITOR REGISTRATION SHEET

Appropriations Subcommittee on Education/Higher Education — May 24, 2011

**Name of Committee** — **Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Paul Fogleman | Insure Inc. |
| Jori Allen | BEGINNINGS |
| Mandy Abdelnour | Action for Children NC |
| Kelli Esty | Rep. Blackwell |
| Charles Perusse | UNC GA |
| Philip Isley | AAP |
| Jonathan Pruitt | UNC - GA |
| Ginger Burks | UNC-GA |
| Jennifer Haygood | NCCCS |
| Jennifer Willis | NCCCS |
| Martez Hill | SBE |

# VISITOR REGISTRATION SHEET

Appropriations Subcommittee on Education/Higher Education — May 24, 2011

**Name of Committee** — **Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Tony Brown | SCANC |
| Erin McGregor | JLF |
| Philip Logan | ECU |
| Kevin Leonard | NCACC |
| Eleanor Herndon | NCPEAL |
| Carolyn McKinney | NCPTSC |
| Leah Elliott | intern |
| Jim Stegall | NC Alliance for Public Charter schools |
| Bob Luebke | Civitas Inst |
| Jay Schalin | Pope Center |
| Andrew Meehan | Capstone |

# VISITOR REGISTRATION SHEET

Appropriations Subcommittee on Education/Higher Education May 24, 2011
**Name of Committee** **Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Hilary DeLudge | Everett, Gaskins & Hancock |
| Lynn Hooper | Everett Gaskins Hancock |
| Ashley Perkinson | Perkinson Law |
| V Galloway | UCINCED |
| Chris Hill | NC Justice Center |
| [illegible] | PST |
| [illegible] | NCES |
| Mike Torrent | UNCA |
| Carye Dima | DR NC |
| Kwin Hovel | NCSU |
| [illegible] Price | DPI |

# VISITOR REGISTRATION SHEET

Appropriations Subcommittee on Education/Higher Education — May 24, 2011

**Name of Committee** — **Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| [illegible] | J Warren an assoc. |
| Betty Doster | DNC Charlotte |
| Atul Bhula | UNC Board of Governors |
| [illegible] | N&O |
| [illegible] | CAOL |
| Ihuoma Igboeungo | Elder Intern with Senator Graham |
| David Grandas | AIAMC |
| [illegible] | Brooks Pierce |
| [illegible] | NC Bar Assn |
| [illegible] | NCAE |
| [illegible] | NCNSA |

# VISITOR REGISTRATION SHEET

Appropriations Subcommittee on Education/Higher Education May 24, 2011
**Name of Committee** **Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Lynn Gray | UNC Gen Admin. |
| Matt Overby | Intern |
| JAIME KING | NCEL |
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# MINUTES
# SENATE APPROPRIATIONS
# SUBCOMMITTEE ON EDUCATION/HIGHER EDUCATION
## Senator Dan Soucek, Presiding
## Thursday, June 7, 2012

The Senate Appropriations Subcommittee on Education/Higher Education met in Room 421 of the Legislative Office Building on Thursday, June 7, 2012, at 2:30p.m.. The following Senators were present: Charlie S. Dannelly, Linda Garrou, Bob Rucho, and Dan Soucek. Members of the Education Fiscal Research Division (FRD) team were also present.

Sen. Soucek, presiding, called the meeting to order. He indicated that members of the Fiscal Research Division team would review the House Budget for the Senate members. The documents used were the House budget and money report. (See Attached)

The Chair recognized Brian Matteson of the (FRD) to review the money report for public schools. He went line by line with a brief explanation as needed.

The Chair then recognized Kris Nordstrom of the (FRD) to review the special provisions.

The Chair opened the floor to discussion and questions from the members. There were a variety of questions asked by the members and answered by staff. The Chair allowed Sen. Martin Nesbitt to ask questions throughout the meeting although not a member of the subcommittee.

The Chair recognized Andrea Poole of the (FRD) to review community colleges in the House budget and money report. She went through the report line by line with a brief explanation as needed.

The Chair opened the floor to discussion and questions from the members. There were a variety of questions asked by the members and answered by staff. Sen. Linda Garrou asked if the NC Community Colleges gave input as to their equipment needs. The Chair recognized Jennifer Willis of the NC Community Colleges to respond. She indicated that they had given such input.

The Chair recognized Denise Harb of the (FRD) to review the university system in the House budget and money report. She went through the report line by line with a brief explanation as needed.

The Chair opened the floor to discussion and questions from the members. There were a variety of questions asked by the members and answered by staff.

The Chair recognized the Sergeant at Arms and thanked the staff.

The meeting adjourned at 3:30p.m.

Respectfully submitted,

Senator Dan Soucek, Chair

Suzanne Castleberry, Committee Clerk