# 2011

# SENATE APPROPRIATIONS – JUSTICE & PUBLIC SAFETY

# MINUTES

**MEMBERSHIP LIST**
**SENATE APPROPRIATIONS SUBCOMMITTEE ON**
**JUSTICE AND PUBLIC SAFETY**
**2011-2012**

| | |
|---|---|
| **Senator Harry Brown, Chair**<br>**Room 300-B, LOB 715-3034**<br>**Harry.Brown@ncleg.net**<br>**LA: Susanne Gunter** | **Senator, Thom Goolsby, Chair**<br>**Room 2115, LB 715-2525**<br>**Thom.Goolsby@ncleg.net**<br>**LA: Morgan Beam** |
| **Senator Edward Jones, Vice Chair**<br>**Room 518, LOB 715-3032**<br>**Edward.Jones@ncleg.net**<br>**LA: Irma Avent-Hurst** | **Senator Dan Soucek, Vice Chair**<br>**Room 310 LOB 733-5742**<br>**Dan.Souchek@ncleg.net**<br>**LA: John Clark** |
| **Senator Dan Clodfelter**<br>**Room 526, LOB 715-8331**<br>**Dan.Clodfelter@ncleg.net**<br>**LA: Wanda Joyner** | **Senator Don East**<br>**Room 522, LOB 733-5743**<br>**Don.East@ncleg.net**<br>**LA:** |
| **Senator Buck Newton**<br>**Room 410, LOB 715-3030**<br>**Buck.Newton@ncleg.net**<br>**LA: Rachel Lee** | |
| | |
| **Staff:**<br><br>**Kristine Leggett**<br>**Fiscal Research Division 733-4910**<br>**Kristine.Leggett@ncleg.net** | <br><br>**Doug Holbrook**<br>**Fiscal Research Division 733-4910**<br>**Doug.Holbrook@ncleg.net** |
| **John Poteat**<br>**Fiscal Research Division 733-4910**<br>**John.Poteat@ncleg.net** | **Rick Shreve**<br>**Fiscal Research Division 733-4910**<br>**Rick.Shreve@ncleg.net** |
| **Sarah Stone**<br>**Fiscal Research Division 733-4910**<br>**Sarah.Stone@ncleg.net** | **Susanne Gunter, Committee Assistant**<br>**Room 300-B, LOB 715-3034**<br>**Susanne.Gunter@ncleg.net** |
| **Morgan Beam, Committee Assistant**<br>**Room 2115, LB 715-2525**<br>**Morgan.Beam@ncleg.net** | |

**SENATE APPROPRIATIONS SUBCOMMITTEE**
**ON JUSTICE AND PUBLIC SAFETY**
**Tuesday, May 10, 2011 at 8:30 AM**
**Room 415, Legislative Office Building**

# MINUTES

The Senate Appropriations on Justice and Public Safety Committee was scheduled to meet at 8:30 AM on May 10, 2011 in Room 415 of the Legislative Office Building. Six Senators attended and Senator Thom Goolsby presided. A visitor registration sheet is attached and made part of these minutes.

Senator Thom Goolsby called the meeting to order at 8:30 AM and recognized the Pages and Sergeants-at-Arms. He noted that the purpose of this meeting was to review HB 200 and the Senate adjustment to the Justice and Public Safety Budget. An agenda is attached and made part of these minutes.

There were no remarks from Chairman Senator Harry Brown before moving to the presentation.

Senator Goolsby introduced Doug Holbrook of the JPS fiscal research division to review the proposed AOC Senate budget adjustments.

-Q. Sen. Clodfelter: In the District Attorney's support staff how many are investigators? A. Doug Holbrook: There are over 40 investigators, none of which are being considered for elimination.

-Q. Sen. Goolsby: What is the ratio of a typical law firm support staff? A. Doug Holbrook: Uncertain, but we are making 10% overall reduction.

-Q. Sen. Jones: Are there any reductions in the DA in item 9? A. Doug Holbrook: No.

-Follow up. Sen Jones: In line item #13 who decided the location of the family court? A. Doug Holbrook: The legislature.

-Q. Sen. Newton: Trial court administrations are in line #7? A. Doug Holbrook: Yes.

-Follow up Sen. Newton: I am assuming that is a line item #10 is an overall reduction of Technology allocation? A. Doug Holbrook: Yes.

Doug Holbrook followed up with review of Senate Appropriations Committee Substitute for Justice and Public Safety Section I4 – Indigent Defense.

-Q. Sen. Brown: In #14 where there set fees for ID? A. Doug Holbrook: The judge has more discretion to approve the time and fees.

-Q. Sen. Newton: What is the projection for future IDS expansion? A. Doug Holbrook: DA office will be very similar in growth model and budget.

Senator Goolsby introduced Kristine Leggett of the JPS fiscal research division to review Senate Appropriations Committee Substitute for Justice and Public Safety Section I – Justice.

-Q. Sen. Jones: Line item#20 where does the eliminated position go? A? Kristine Leggett: Information technology employees.

Senator Goolsby introduced Kristine Leggett of the JPS fiscal research division to review Senate Appropriations Committee Substitute for Justice and Public Safety Section I – Juvenile Justice & Delinquency Prevention.

-Q. Sen. Jones: Has all of the longevity been canceled and is Simmons the nearest detention center? A. Kristine Leggett: Yes, it is the nearest detention center.

Senator Goolsby called back Doug Holbrook of the JPS fiscal research division to review Senate Appropriations Committee changes to HB 200.

-Q. Sen. Jones: Who is responsible for picking up large litter items? A. Doug Holbrook: That is the responsibility of the county waste removal department.

-Follow up Sen. Jones: Ever prisoner has the right to a Chaplin. With these reductions are you now saying that we will be depending on volunteers to carry out this work? A. Doug Holbrook: Yes, if we need to go beyond the existing allotment for Chaplin's.

Kristine Leggett returned to discuss the organizational flow chart.

-Q. Sen. Jones: How many Highway Patrol position did we lose? A. Kristine Leggett: Between 57-63 position to highway patrol.

-Follow up Sen. Jones: Why don't we look at eliminating positions from highway patrol to work private events? A. Kristine Leggett: We can do that.

Senator Goolsby asked if there were any questions and/or comments from the committee. With no questions/comments, Senator Goolsby adjourned the meeting at 9:15.

Senator Thom Goolsby, Presiding Chair

Morgan Beam, Committee Clerk

Principal Clerk ____
Reading Clerk ____

# SENATE
## NOTICE OF COMMITTEE MEETING
## AND
## BILL SPONSOR NOTICE

The Senate Committee on **Appropriations on Justice and Public Safety** will meet at the following time:

| DAY | DATE | TIME | ROOM |
|---|---|---|---|
| Tuesday | May 10, 2011 | 8:30 AM | 415 LOB |

The following will be considered:

| BILL NO. | SHORT TITLE | SPONSOR |
|---|---|---|

Senator Harry Brown, Co-Chair
Senator Thom Goolsby, Co-Chair

**SENATE APPROPRIATIONS SUBCOMMITTEE ON JUSTICE AND PUBLIC SAFETY**
**Room 415 Legislative Office Building**

**May 10, 2011 8:30 A.M.**

## I. CALL TO ORDER

Chairs: Senator Thom Goolsby, Presiding
Senator Harry Brown

## II. PRESENTATIONS

Opening Remarks by Chairs

Review of House JPS Budget
*Fiscal Research Staff*

## III. OTHER BUSINESS:

Next meetings:

## IV. ADJOURNMENT

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**Senate Appropriations Subcommittee on JPS**
Sen. Brown (Chair)
Sen. Goolsby (Chair)
Sen. Jones (Vice Chair)
Sen. Soucek (Vice Chair),
Sen. Clodfelter, Sen. East, Sen. Newton

**Conference Appropriations Subcommittee on JPS**
**Final Court Cost Increases**
**FY 2011-2012**

**General Fund Court Costs**

| | Court Cost | Current Cost | Increase | New Cost | Amount Generated | Funds Go To: | Total (Incl. Other Costs) |
|---|---|---|---|---|---|---|---|
| 1 | Superior Court - Civil | $125.00 | $55.00 | $180.00 | $1,492,315 | GF | $200.00 |
| 2 | Superior Court - Criminal | $102.50 | $52.00 | $154.50 | $140,244 | GF | $200.00 |
| 3 | District Court - Civil | $80.00 | $50.00 | $130.00 | $8,004,800 | GF | $150.00 |
| 4 | District Court - Criminal | $100.50 | $24.00 | $124.50 | $23,663,976 | GF | $170.00 |
| 5 | Magistrate - Civil (Small Claims) | $55.00 | $25.00 | $80.00 | $6,193,975 | GF | $100.00 |
| 6 | Special Procedings | $75.00 | $31.00 | $106.00 | $465,000 | GF | $120.00 |
| 7 | Estates | $75.00 | $31.00 | $106.00 | $1,085,000 | GF | $120.00 |
| 8 | Additional Civil Motions | $0.00 | $20.00 | $20.00 | $3,139,860 | GF | $20.00 |
| 9 | Cost to Reissue Summons | $0.00 | $15.00 | $15.00 | $820,455 | GF | $15.00 |
| 10 | Foreclosure Cost | $150.00 | $150.00 | $300.00 | $8,875,350 | GF | $300.00 |
| 11 | Counterclaim Court Cost District | $0.00 | $130.00 | $130.00 | $1,466,660 | GF | |
| 12 | Counterclaim Court Cost Superior | $0.00 | $130.00 | $130.00 | $414,310 | GF | |
| 13 | Reduce Access to CJ Pass-through | | | | $1,557,521 | GF | |
| | | | | **Subtotal Court Fees** | **$57,319,466** | | |

| | Facility Costs | Current Cost | Increase | New Cost | Amount Generated | Funds Go To: | Total |
|---|---|---|---|---|---|---|---|
| 14 | District Court | $12.00 | $18.00 | $30.00 | **$19.1 million** | Counties | |
| 15 | Superior Court | $30.00 | $0.00 | $30.00 | $0 | Counties | |
| 16 | Civil Court | $16.00 | $0.00 | $16.00 | $0 | Counties | |
| 17 | Special Proceedings/Estates | $10.00 | $0.00 | $10.00 | $0 | Counties | |
| 18 | Phone System Fee | $4.00 | $0.00 | $4.00 | $0 | Counties | |

| | Additional Criminal Fees | | | | | | |
|---|---|---|---|---|---|---|---|
| 19 | LEO Retirement | $7.50 | | | | Law Enforcment | |
| 20 | LEO Training | $2.00 | | | | DOJ | |
| 21 | DNA Fee | $2.00 | | | | DOJ | |

| | Other Cost Increases-Non GF | Current Cost | Increase | New Cost | Amount Generated | Funds Go To: | Total |
|---|---|---|---|---|---|---|---|
| 22 | Increase Civil Process Fee | $15.00 | $15.00 | $30.00 | **$3.3 million** | Counties | |
| 23 | Daily Jail Fee | $5.00 | $5.00 | $10.00 | N/A | Counties | |
| 24 | Improper Equipment | $0.00 | $50.00 | $50.00 | $12,430,000 | Special Fund for Counties | |
| 25 | Jail Inmate Medical Co pay | $10.00 | $10.00 | $20.00 | N/A | Counties | |

# PAGES ATTENDING

COMMITTEE: Approps. Justice & P.S. ROOM: 415

DATE: 5-10 TIME: 8:30

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

| Page Name | Hometown | Sponsoring Senator |
|---|---|---|
| 1 Ashton Herring | Calypso | Brent Jackson 4:30 4:15 LOB |
| 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**

Sen Justice & Public Saf

**Name of Committee** **Date** 5-10-2011

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

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Esther Hall | NCLEAP |
| Thomas Maher | IDS |
| SUSAN BROOKS | IDS / SENTENCING SERVICES |
| Elisa Wolper | IDS |
| Mitch Lunard | SEANC |
| Eddie Caldwell | NC Sheriffs' Assn. |
| JEAN SANSAIRE | NC DJJDP |
| Gregg Stahl | NC AOC |
| Amy Baum | NCACC |
| Heather Barrett | Williams Mullen |
| Bill Shelton | Summit House |

**VISITOR REGISTRATION SHEET**

Sen. Justice & Public Saf

**Name of Committee** **Date** 5-10-2011

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

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| NIELS ROSELAND | AGO |
| Jennifer Epperson | NC DOJ |
| Nicole Sullivan | NC Dept of Correction |
| Barbara Baker | NCDOC |
| Frank Rogers | NCDOC |
| John McMillan | MFOS |
| John LEDFORD | Alcohol LAW Enforcement |
| MARK SENTER | ALCOHOL LAW ENFORCEMENT |
| Thomas C. Caves, Jr. | NC Dept. of Crime Control & Public Safety |
| Tom Bennett | NCVAN |
| Meg Miller | KLG |

**VISITOR REGISTRATION SHEET**

Sen Justice & Public Saf.

**Name of Committee** **Date** 5-10-2011

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

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Tom West | Federal Youth Alternatives, Inc |
| Lao Rubert | CJPC |
| [illegible] | [illegible] |
| Melissa Radcliff | Our Children's Place |
| Gordon Keath | PCNC1 |
| [illegible] | Conf of DAs |
| Mildred R. Spearman | NCAOC |
| Aaron Gallagher | OSBM |
| Cheryl Reed | OSBM |
| Jimmy Butler | WAKE ABC |
| Keith Whitfield | Durham ABC LE |
| Kim Roach | NC Bar Assn |
| Sara Vollrath | GAL volunteer |

**SENATE APPROPRIATIONS ON JUSTICE**
**& PUBLIC SAFETY COMMITTEE**
**Wednesday, May 11, 2011 at 8:30 AM**
**Room 544, Legislative Office Building**

## MINUTES

The Senate Appropriations on Justice and Public Safety Committee met at 8:30 AM on May 11, 2011 in room 415 of the Legislative Office Building. Alexis McDonald of Raleigh served as a page. Four members of the committee were present. Senator Brown presided as chair.

The meeting consisted of Fiscal Research staff, Kristine Leggett, Doug Holbrook and John Poteat, offering brief section by section explanations of the House's budget bill. They outlined the differences in the House and Senate proposals in the following parts of the current budget: Part XV – Judicial Department, Part XVI – Department of Justice, Part XVII - Department of Juvenile Justice and Delinquency, and Part XVII - Department of Correction. A copy of House Bill 200 is attached.

The meeting adjourned at 9:15 AM.

Senator Harry Brown, Presiding Chair

DeAnne Mangum, Committee Clerk

**SENATE APPROPRIATIONS SUBCOMMITTEE ON JUSTICE AND PUBLIC SAFETY**
**Room 415 Legislative Office Building**

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

## I. CALL TO ORDER

Chairs: Senator Harry Brown, Presiding
Senator Thom Goolsby

## II. PRESENTATIONS

Opening Remarks by Chairs

Review of House JPS Budget (continued)
*Fiscal Research Staff*

## III. OTHER BUSINESS:

Next meetings:

## IV. ADJOURNMENT

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**Senate Appropriations Subcommittee on JPS**
Sen. Brown (Chair)
Sen. Goolsby (Chair)
Sen. Jones (Vice Chair)
Sen. Soucek (Vice Chair),
Sen. Clodfelter, Sen. East, Sen. Newton

**Conference Appropriations Subcommittee on JPS**
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| | | | | **Subtotal Court Fees** | **$57,319,466** | | |

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| | Civil Court | $16.00 | $0.00 | $16.00 | $0 | Counties | |
| 17 | Special Proceedings/Estates | $10.00 | $0.00 | $10.00 | $0 | Counties | |
| 18 | Phone System Fee | $4.00 | $0.00 | $4.00 | $0 | Counties | |
| | **Additional Criminal Fees** | | | | | | |
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| | Other Cost Increases-Non GF | Current Cost | Increase | New Cost | Amount Generated | Funds Go To: | Total |
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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**

Short Title: Appropriations Act of 2011. (Public)

Sponsors:

Referred to:

March 2, 2011

A BILL TO BE ENTITLED

AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES; TO ENACT BUDGET RELATED AMENDMENTS; AND TO REORGANIZE STATE GOVERNMENT.

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 | $ 991,518,860 | $ 991,518,860 |
| Department of Public Instruction | 7,164,492,057 | 7,188,174,120 |
| University of North Carolina – Board of Governors | | |
| Appalachian State University | 145,517,520 | 145,634,877 |
| East Carolina University | | |
| Academic Affairs | 245,397,807 | 245,397,807 |

| | | |
|---|---|---|
| Health Affairs | 65,196,439 | 65,196,439 |
| Elizabeth City State University | 38,046,385 | 38,218,704 |
| Fayetteville State University | 56,905,587 | 56,905,587 |
| NC A&T State University | 105,176,407 | 105,615,356 |
| NC Central University | 94,313,451 | 94,313,451 |
| NC State University | | |
| Academic Affairs | 433,670,004 | 433,784,186 |
| Agricultural Research | 59,239,461 | 59,239,461 |
| Agricultural Extension | 43,539,609 | 43,539,609 |
| UNC-Asheville | 41,957,576 | 41,957,576 |
| UNC-Chapel Hill | | |
| Academic Affairs | 305,534,624 | 308,896,160 |
| Health Affairs | 219,507,009 | 222,570,732 |
| AHEC | 49,747,851 | 49,747,851 |
| UNC-Charlotte | 216,403,013 | 217,419,156 |
| UNC-Greensboro | 172,887,958 | 172,887,958 |
| UNC-Pembroke | 61,534,005 | 62,277,254 |
| UNC-School of the Arts | 27,558,488 | 27,558,488 |
| UNC-Wilmington | 105,812,709 | 107,008,285 |
| Western Carolina University | 90,591,556 | 91,070,460 |
| Winston-Salem State University | 76,496,951 | 76,496,950 |
| General Administration | 38,186,863 | 27,628,722 |
| University Institution Programs | (448,889,424) | (450,130,098) |
| Related Educational Programs | 83,066,868 | 83,519,790 |
| UNC Financial Aid Private Colleges | 94,038,880 | 94,038,880 |
| North Carolina School of Science and Mathematics | 18,937,535 | 18,937,535 |
| UNC Hospitals at Chapel Hill | 0 | 0 |
| Total University of North Carolina – Board of Governors | $ 2,440,375,132 | $ 2,439,731,176 |
| | | |
| **HEALTH AND HUMAN SERVICES** | | |
| | | |
| Department of Health and Human Services | | |
| Division of Central Management and Support | $ 52,152,812 | $ 46,553,422 |
| Division of Aging and Adult Services | 37,019,667 | 37,019,667 |
| Division of Services for Blind/Deaf/Hard of Hearing | 7,889,110 | 7,872,886 |
| 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 | 2,958,388,184 | 2,907,276,302 |
| Division of Mental Health, Developmental Disabilities and Substance Abuse | 665,342,797 | 710,342,797 |
| NC Health Choice | 79,452,317 | 83,717,865 |
| Division of Public Health | 157,538,834 | 157,538,834 |
| Division of Social Services | 185,077,068 | 185,077,068 |
| Division of Vocational Rehabilitation | 37,125,788 | 37,528,128 |
| Total Health and Human Services | $ 4,462,222,541 | $ 4,455,162,933 |
| | | |
| **NATURAL AND ECONOMIC RESOURCES** | | |
| | | |
| Department of Agriculture and Consumer Services | $ 62,985,947 | $ 58,601,764 |
| | | |
| Department of Commerce | | |
| Commerce | 48,726,610 | 31,785,323 |
| Commerce State-Aid | 31,376,632 | 21,727,714 |
| NC Biotechnology Center | 17,551,710 | 17,551,710 |
| Rural Economic Development Center | 20,376,729 | 20,376,729 |
| | | |
| Department of Environment and Natural Resources | 163,440,879 | 148,086,824 |

| | | |
|---|---|---|
| DENR Clean Water Management Trust Fund | 10,000,000 | 10,000,000 |
| Department of Labor | 15,842,931 | 15,842,931 |
| Wildlife Resources Commission | 18,500,000 | 17,721,179 |
| **JUSTICE AND PUBLIC SAFETY** | | |
| Department of Correction | $ 1,340,202,159 | $ 1,350,623,300 |
| Department of Crime Control and Public Safety | 222,629,011 | 219,701,034 |
| Judicial Department | 439,752,763 | 433,930,299 |
| Judicial Department – Indigent Defense | 109,353,574 | 108,842,576 |
| Department of Justice | 81,817,912 | 81,978,037 |
| Department of Juvenile Justice and Delinquency Prevention | 135,862,879 | 131,409,752 |
| **GENERAL GOVERNMENT** | | |
| Department of Administration | $ 64,568,694 | $ 66,472,824 |
| Department of State Auditor | 11,085,580 | 9,904,041 |
| Office of State Controller | 27,768,957 | 27,768,957 |
| Department of Cultural Resources | | |
| Cultural Resources | 63,782,528 | 63,139,250 |
| Roanoke Island Commission | 1,203,491 | 0 |
| State Board of Elections | 4,087,190 | 4,027,190 |
| General Assembly | 47,851,154 | 46,562,667 |
| Office of the Governor | | |
| Office of the Governor | 5,243,332 | 5,243,332 |
| 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 | 9,673,051 | 9,673,051 |
| 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 | 567,733 | 567,733 |
| Office of Administrative Hearings | 4,983,871 | 4,983,871 |
| Department of Revenue | 78,321,271 | 78,321,271 |
| Department of Secretary of State | 9,219,596 | 9,219,596 |
| 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 & Rescue Squad Workers Pension Fund | 5,800,000 | 6,900,000 |
| National Guard Pension Fund | 263,000 | 523,000 |
| State Health Plan | 11,725,587 | 109,480,158 |
| Information Technology Fund | 4,458,142 | 6,158,142 |
| Reserve for Job Development Investment Grants (JDIG) | 20,400,000 | 27,400,000 |
| Continuation Review Reserve | 0 | 36,738,931 |
| Comprehensive Review of Compensation Plans | 2,000,000 | 0 |
| Severance Expenditure Reserve | 75,000,000 | 0 |
| Debt Service | | |
| General Debt Service | 688,957,188 | 759,984,974 |
| Federal Reimbursement | 1,616,380 | 1,616,380 |
| **TOTAL CURRENT OPERATIONS – GENERAL FUND** | **$ 19,296,441,333** | **$ 19,505,292,343** |
| **Capital Improvements – General Fund** | **2011-2012** | **2012-2013** |
| Water Resources Development Projects | 4,535,000 | 0 |
| TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND | 4,535,000 | 0 |
| **TOTAL ADJUSTMENT** | **$ 19,300,976,333** | **$ 19,505,292,343** |

**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 | $ 123,284,701 |
| Ending Unreserved Fund Balance for FY 2009-2010 | 236,902,394 | 0 |
| Anticipated Reversions for FY 2010-2011 | 537,740,799 | 0 |
| Anticipated Overcollections from FY 2010-2011 | 156,300,000 | 0 |
| Repayment of Medicaid Receipts in FY 2010-2011 | (125,000,000) | 0 |
| **Statutory Earmarks:** | | |
| Savings Reserve Account | (201,485,798) | 0 |
| Repairs and Renovations Reserve Account | (201,485,798) | 0 |
| **Beginning Unreserved Fund Balance** | **$ 402,971,597** | **$ 123,284,701** |
| **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** | **$19,225,601,597** | **$20,004,313,506** |
| | | |
| **Adjustments to Availability: 2011 Session** | | |
| Loss of Estate Tax (nonrecurring) | $ (57,100,000) | $ (72,200,000) |
| Reserve for Finance Committee | (230,000,000) | (405,000,000) |
| Repeal Wildlife Resources Sales Tax Earmark | 22,970,000 | 23,920,000 |
| Suspend Corporate Income Tax Earmark (Public School Construction) | 72,110,000 | 74,750,000 |
| Increase in Judicial Fees | 57,319,466 | 57,319,466 |
| Transfer from E-Commerce Reserve Fund | 4,483,526 | 0 |
| Divert Funds from Parks & Recreation Trust Fund | 8,435,000 | 0 |
| Divert Funds from Recreational/ Natural Heritage Trust Fund | 8,000,000 | 0 |
| Transfer from Commerce – Enterprise Fund | 500,000 | 0 |
| Transfer from Highway Fund for State Highway Patrol | 193,527,300 | 190,394,000 |
| Transfer from Mercury Prevention Pollution Fund | 250,000 | 0 |
| Divert Funds from Scrap Tire Disposal Account | 2,268,989 | 0 |
| Divert Funds from White Goods Management Account | 1,951,465 | 0 |
| Diversion of Golden LEAF Funds | 67,563,760 | 67,563,760 |
| Tobacco Master Settlement Agreement Funds | 16,585,466 | 16,697,818 |
| Department of Revenue – Accounts Receivable Program | 15,000,000 | 15,000,000 |
| Medicaid Disproportionate Share Receipts | 15,000,000 | 15,000,000 |
| Redirect Dispute Resolution Fees | (205,535) | (205,535) |
| **Subtotal Adjustments to Availability: 2011 Session** | **$ 198,659,437** | **$ (16,760,491)** |
| | | |
| **Revised General Fund Availability** | **$ 19,424,261,034** | **$ 19,990,604,210** |
| | | |
| **Less General Fund Appropriations:** | **$ (19,300,976,333)** | **$ (19,505,292,343)** |
| | | |
| **Unappropriated Balance Remaining** | **$ 123,284,701** | **$ 485,311,866** |

**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 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 funds specified in G.S. 115C-546.1(b) to the State Controller for deposit in Nontax Budget Code 19978 (Intrastate Transfers) during the 2011-2013 fiscal biennium 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 | 500,000 |
| 24300 | 2119 | Mercury Prevention Pollution Fund | 250,000 |

**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 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 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 eight million four hundred thirty-five thousand dollars ($8,435,000) 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 eight million dollars ($8,000,000) 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.

## 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 | $ 87,555,806 | $ 87,555,806 |
| Division of Highways | | |
| Administration | 30,709,626 | 28,923,392 |
| Construction | 80,401,826 | 79,508,087 |
| Maintenance | 1,073,293,592 | 1,145,325,356 |
| Planning and Research | 4,055,402 | 4,055,402 |
| OSHA Program | 372,792 | 372,792 |
| Ferry Operations | 31,189,589 | 38,538,132 |
| State Aid | | |
| Municipalities | 89,373,921 | 90,187,224 |
| Public Transportation | 93,794,695 | 93,794,695 |
| Airports | 18,401,413 | 22,311,031 |
| Railroads | 22,101,153 | 22,101,153 |
| Governor's Highway Safety | 273,093 | 273,093 |

| | | |
|---|---|---|
| Division of Motor Vehicles | 89,823,520 | 42,758,451 |
| Other State Agencies, Reserves, Transfers | 286,143,572 | 296,795,386 |
| Capital Improvements | 15,250,000 | 15,000,000 |
| **Total** | **$ 1,922,740,000** | **$ 1,967,500,000** |

**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 | $ 0 | $ 0 |
| Beginning Credit Balance | 0 | 0 |
| Estimated Revenue | 1,922,740,000 | 1,967,500,000 |
| Total Highway Fund Availability | $ 1,922,740,000 | $ 1,967,500,000 |
| Unappropriated Balance | $ 0 | $ 0 |

**STATE HIGHWAY PATROL FUNDS TRANSFER**

**SECTION 3.3.(a)** In fiscal year 2011-2012, the State Treasurer shall transfer one hundred ninety-three million five hundred twenty-seven thousand three hundred dollars ($193,527,300) 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 3.3.(b)** In fiscal year 2012-2013, the State Treasurer shall transfer one hundred ninety million three hundred ninety-four thousand dollars ($190,394,000) 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 3.3.(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 3.3.(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.~~

...."

**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 biennium ending June 30, 2013, according to the following schedule:

| **Current Operations – Highway Trust Fund** | **2011-2012** | **2012-2013** |
|---|---|---|
| Intrastate | $ 435,942,824 | $ 454,712,566 |

| | | |
|---|---|---|
| Aid to Municipalities | 48,605,470 | 50,602,947 |
| Secondary Roads | 51,155,667 | 56,820,944 |
| Program Administration | 44,774,400 | 47,107,200 |
| Turnpike Authority | 99,000,000 | 99,000,000 |
| Transfer to General Fund | 41,497,276 | 27,595,861 |
| Transfer to Highway Fund | 400,000 | 400,000 |
| Debt Service | 79,231,728 | 81,481,543 |
| Mobility Fund | 272,602,635 | 213,568,939 |
| **GRAND TOTAL CURRENT OPERATIONS** | **$ 1,073,210,000** | **$ 1,031,290,000** |

**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:

| | | |
|---|---|---|
| **Total Highway Trust Fund Availability** | **$ 1,073,210,000** | **$ 1,031,290,000** |

## 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 and authorized 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.

**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 | 98,697,370 |
| UNC Need-Based Financial Aid | 42,497,363 |
| 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).

Counties may authorize local school administrative units to use funds received from the Public School Building Capital Fund pursuant to subsections (b) and (f) of this section for one or more of the following purposes only: (i) for school construction projects in accordance with G.S. 115C-546.2(d), (ii) to retire indebtedness incurred on or after January 1, 2003, in accordance with G.S. 115C-546.2(d), for school construction projects, and (iii) for classroom teachers. A county may authorize the use of these funds for classroom teachers only upon the request of the local board of education. Funds used for classroom teachers shall supplement and not supplant existing local current expense funding for the public schools.

**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.

## 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.

### 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 as 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.

### INTERIM APPROPRIATIONS COMMITTEES/MEETINGS/CONSULTATION BY GOVERNOR

**SECTION 6.5.(a)** The General Assembly finds that:

(1) The power of appropriation is vested only with the General Assembly; and
(2) Article V, Section 7 of the North Carolina Constitution requires that no money shall be drawn from the State treasury but in consequence of appropriations made by law; and
(3) Article III, Section 5 of the North Carolina Constitution requires the Governor to administer the budget as enacted by the General Assembly; and
(4) Proper oversight of public funds and oversight of the execution and administration of the State's budget are tantamount to good stewardship and proper governance; and

(5) It is the proper duty of a legislative body to examine and review the expenditure of public funds on an ongoing basis and that the appropriations committees of the General Assembly shall meet as needed to fulfill this duty.

**SECTION 6.5.(b)** Purpose. – The House of Representatives and Senate Appropriations Committees (the Committees) may meet monthly during the period between legislative sessions to perform ongoing examination and oversight of State agencies' execution and administration of the budget, including review of agency expenditures and collections of receipts, agency compliance with State laws governing the expenditure of public moneys, compliance with legislative policies and intent, and the ongoing fiscal stability and integrity of State government.

**SECTION 6.5.(c)** The Committees may perform the following:

(1) Review the expenditure of State funds as to:
  a. Conformity with State law.
  b. Conformity with legislative intent.
  c. Necessity with meeting program or purpose objectives.

(2) Conduct zero-based budgeting or another systematic approach to examine the use of State funds on an ongoing basis.

(3) Receive quarterly analyses of the State's revenues and expenditures as prepared by the Fiscal Research Division of the Legislative Services Commission.

(4) Propose legislation that would result in enhanced program accountability.

(5) Provide oversight of fiscal studies.

(6) Provide oversight of justification reviews conducted by the Fiscal Research Division of the Legislative Services Commission, whereby programs are evaluated periodically for continuing appropriations. The results of these justification reviews shall be made to the Appropriations Committees at the beginning of each legislative session.

(7) Evaluate State agencies' plans or proposals regarding the funding of new or expanded programs and services not previously approved by the General Assembly as part of its Appropriations Act.

(8) Produce written reports of findings and recommendations as follows:
  a. To the General Assembly. If findings arrived at during a study have a potential impact on appropriations deliberations, the findings shall be presented immediately to the committees. These reports shall contain recommendations for appropriate executive action and when legislation is considered necessary to effect change, draft legislation for that purpose may be included.
  b. To the Governor. If findings arrived at during a review have a potential impact on the current budget, the findings shall be presented immediately to the Governor and shall contain recommendations for appropriate executive action.

**SECTION 6.5.(d)** The Committees shall be consulted by the Governor prior to any of the following:

(1) Establishment of permanent State positions in the executive branch unless authorized in this act.

(2) Expenditures in excess of the total requirements of a purpose or program as enacted by the General Assembly and as provided by G.S. 143C-6-4.

(3) Extraordinary measures taken under Article III, Section 5(3) of the North Carolina Constitution to effect necessary economies in State expenditures required for balancing the budget due to a revenue shortfall, including, but not limited to, the following: loans among funds, personnel freezes or layoffs, capital project reversions, program eliminations, and use of reserves. However, if the Committees fail to meet within 10 calendar days of a request by the Governor for its consultation, the Governor may proceed to take the appropriate and necessary actions and shall then report those actions at the next meeting of the Committees.

(4) Notwithstanding G.S. 143C-8-7, G.S. 143C-8-12, or any law to the contrary, the Committees shall be consulted by the Governor prior to approval of new capital improvement projects funded from gifts, grants, receipts, special

funds, self-liquidating indebtedness, and other funds or any combination of funds for projects not specifically authorized by the General Assembly. The consultation shall include a description for each proposed capital project as delineated in G.S. 143C-8-6(e).

**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) DENR Regional Offices – Department of Environment and Natural Resources.
(3) DHHS postsecondary education programs.
(4) Environmental Rating Scales Contract.

**SECTION 6.6.(c)** By May 1, 2012, the Fiscal Research Division shall report its findings and recommendations to the House of Representatives and Senate Appropriations Committees. 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 Committees of the House of Representatives and 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. –
  a. Drug Treatment Court.
  b. Family Court.

(2) Education. – Center for Public Television as provided by Section 9.1 of this act.
(3) Natural and Economic Resources. –
a. Agriculture/Research Stations.
b. DENR/Prairie Ridge Ecostation.
c. Commerce/Office of Science and Technology.
d. Wildlife Resources Commission/Conservation Education.
(4) Health and Human Services. – Division of Information Resource Management.
(5) General Government. – General Assembly Facility Services.
(6) Transportation. – Division of Motor Vehicles Drivers' License Program.

**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.

**STATE GOVERNMENT REORGANIZATION**

**SECTION 6.8.** The Joint Legislative Commission on Governmental Operations (Commission) shall study the feasibility of creating a single department to support State departments, agencies, and offices with services, including, but not limited to, human resource management, information technology, purchasing, and budget and financial management. The Commission shall report to the House of Representatives and Senate Appropriations Committees on its findings and recommendations upon the convening of the 2012 Regular Session of the 2011 General Assembly.

In the conduct of this study, the Commission may consider the Governor's proposed Department of Management and Administration as included in Executive Order 85, dated March 25, 2011, entitled "Consolidation and Reorganization of Executive Branch Agencies to Improve the Efficiency of State Government."

**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**

**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 May 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.

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

**SECTION 6.11.(a)** Effective December 31, 2011, the Health and Wellness Trust Fund (HWTF) is abolished. Article 6C of Chapter 147 of the General Statutes is repealed.

**SECTION 6.11.(b)** The title of Article 75 of Chapter 143 of the General Statutes reads as rewritten:

"Article 75.

Tobacco ~~Trust Fund.~~Funds."

**SECTION 6.11.(c)** G.S. 143-716 reads as rewritten:

"**§ 143-716. Definitions.**

The following definitions apply in this Article:

(1) ~~Commission. – The Tobacco Trust Fund Commission.~~Board. – The Board of Agriculture established in G.S. 106-2.

(2) Compensatory programs. – Programs developed by the ~~Commission~~ Board to identify, locate, compensate, and indemnify tobacco producers, allotment holders, and persons engaged in tobacco-related businesses who have suffered actual economic losses in this State due to lost quota, the decline in value of tobacco-related personal property assets, and declining market conditions resulting from the Master Settlement Agreement or declines in the tobacco-related segment of the State's economy.

~~(3) Fund. – The Tobacco Trust Fund.~~

(4) Master Settlement Agreement. – The settlement agreement between certain tobacco manufacturers and the states, as incorporated in the consent decree entered in the action of State of North Carolina v. Philip Morris, Incorporated, et al., 98 CVS 14377, in the General Court of Justice, Superior Court Division, Wake County, North Carolina.

(5) National Tobacco Grower Settlement Trust. – The trust established by tobacco companies to provide payments to tobacco growers and allotment holders in 14 states for the purposes of ameliorating potential adverse economic consequences of likely reduction in demand, sales, and prices for tobacco as an agricultural product as a result of the Master Settlement Agreement.

(6) Qualified agricultural programs. – Programs developed by the ~~Commission~~ Board to support and foster the vitality and solvency of the tobacco-related segment of the State's agricultural economy, particularly the segment adversely affected by the Master Settlement Agreement, with the objective of alleviating and avoiding unemployment, preserving, and increasing local tax bases, and encouraging the economic stability of participants in the State's agricultural economy. Examples of qualified agricultural programs include programs to finance the modernization of farming equipment, programs to finance the conversion of existing equipment to conform to environmental and other regulatory requirements, and programs to finance the conversion or replacement of equipment in order to cultivate crops that are more profitable than are currently being cultivated.

(7) Tobacco product component business. – An individual, partnership, limited liability company, corporation, or other commercial entity that engages in the manufacture of component products for use in the manufacture of tobacco products.

(8) Tobacco-related business. – An individual, partnership, limited liability company, corporation, or other commercial entity that provides products or services used directly in (i) the production of tobacco, or (ii) support of the business of the production or sale of tobacco. The term does not include the manufacturing of tobacco products or the sale of tobacco products at wholesale or retail.

(9) Tobacco-related employment. – Employment in a tobacco-related business, or in the manufacturing of tobacco products or the component products used in the manufacture of tobacco products. The term does not include persons employed in the sale of tobacco products at wholesale or retail."

**SECTION 6.11.(d)** G.S. 143-717 is repealed.

**SECTION 6.11.(e)** G.S. 143-718 reads as rewritten:

"**§ 143-718. Powers and duties.**

The ~~Commission~~ Board shall have the following powers and duties:

(1) To administer the provisions of this Article.

(2) To develop compensatory programs and qualified agriculture programs, including guidelines and criteria for eligibility for and disbursement of funds, the forms of direct and indirect economic assistance to be awarded, and procedures for applying for and reviewing applications for assistance from the ~~Fund.~~funds appropriated for purposes of this Article. In developing guidelines and criteria for eligibility and disbursement of funds, the ~~Commission~~ Board may consult with and otherwise obtain assistance from

the State and local offices of the Farm Service Agency and other agencies of the United States Department of Agriculture.

(3) To provide financial assistance to eligible recipients, in carrying out compensatory programs and qualified agricultural programs.

(4) To hire staff for the administration of the ~~Fund.~~funds.

(5) To contract with other persons to assist in the administration of the ~~Commission's~~ Board's programs.

(6) To accept gifts or grants from other sources.

(7) To adopt rules to implement this Article."

**SECTION 6.11.(f)** G.S. 143-719 is repealed.

**SECTION 6.11.(g)** G.S. 143-720 reads as rewritten:

"**§ 143-720. Benefits and administration of ~~Fund~~ funds for compensatory programs.**

(a) Funds ~~held in the Fund~~appropriated for purposes of this Article may be expended on compensatory programs as provided in this section.

(b) The ~~Fund~~ Board may provide direct and indirect financial assistance, in accordance with criteria established by the ~~Commission~~ Board and to the extent allowed by law, to accomplish the following:

(1) Indemnify tobacco producers, allotment holders, and persons engaged in tobacco-related businesses from the adverse economic effects in this State of the Master Settlement Agreement.

(2) Compensate tobacco producers, allotment holders, and persons engaged in tobacco-related businesses for economic loss resulting from lost quota and compensate tobacco producers for the decline in value of tobacco-related personal property assets and declining market conditions resulting from the Master Settlement Agreement in this State.

(3) Compensate individuals displaced from tobacco-related employment in this State as a result of the adverse economic effects of the Master Settlement Agreement.

(4) Compensate tobacco product component businesses that are (i) adversely impacted by the Master Settlement Agreement and that (ii) need financial assistance to retool machinery or equipment or to retrain workers, in order to convert to the production of new products or nontobacco use of existing products, or to effect other similar changes.

(c) Only tobacco producers, persons engaged in tobacco-related businesses, individuals displaced from tobacco-related employment, and tobacco product component businesses in this State, and holders of North Carolina tobacco allotments are eligible to apply for and receive assistance pursuant to subsection (b) of this section. Direct payments made to tobacco producers, tobacco allotment holders, and persons engaged in tobacco-related businesses shall be based on losses resulting in 1998 and thereafter. Lost quota shall be a primary determinative factor in calculating the amount of compensable economic loss for tobacco producers, allotment holders, and persons engaged in tobacco-related businesses.

(d) The ~~Commission~~ Board shall determine the priority of awards among the categories in subsection (b) of this section and within each of those categories.

(e) Financial assistance awards shall be for no more than one year at a time. An award may be renewed annually, without limitation.

(f) The ~~Commission~~ Board may require applicants to provide copies of documents necessary to determine compensable economic loss.

(g) In no event shall the amount paid to a tobacco producer or allotment holder pursuant to this Article, when combined with the amount received through the National Tobacco Grower Settlement Trust, exceed the compensable economic loss of the producer or allotment holder.

(h) The ~~Commission~~ Board may consider the criteria used for National Tobacco Grower Settlement Trust payments and may correspond with the National Tobacco Grower Settlement Trust certification entity to ensure that tobacco farmers and allotment holders are treated fairly."

**SECTION 6.11.(h)** G.S. 143-721 reads as rewritten:

"**§ 143-721. Benefits and administration of ~~Fund~~ funds for qualified agricultural programs.**

(a) Funds appropriated for purposes of this Article ~~held in the Fund~~ may be expended on qualified agricultural programs as provided in this section.

(b) In implementing qualified agricultural programs, the ~~Commission~~ Board shall endeavor to identify those areas of the tobacco-related segment of the State's economy in need of assistance to be provided by the ~~Fund~~ funds in order to assure the continued vitality and solvency of those areas. The ~~Commission~~ Board shall endeavor to select for funding qualified agricultural programs that will have the greatest favorable impact on the long-term health of the tobacco-related economy of the State.

(c) The benefits of qualified agricultural programs are not limited to persons suffering economic loss resulting from the Master Settlement Agreement, but these programs shall be designed to foster, support, and assist the tobacco-related segment of the agricultural economy.

(d) The ~~Commission~~ Board may solicit and accept proposals from agencies and departments of the State, including institutions of The University of North Carolina, local units of government, the federal government, and members of the private sector for qualified agricultural programs to be funded with ~~money held in the Fund.~~funds appropriated for purposes of this Article."

**SECTION 6.11.(i)** G.S. 143-722 reads as rewritten:

"**§ 143-722. Reporting.**

(a) The chair of the ~~Commission~~ Board shall report each year by November 1 to the Joint Legislative Commission on Governmental Operations and the chairs of the House and Senate Appropriations Committees regarding the implementation of this Article, including a report on funds disbursed during the fiscal year by amount, purpose, and category of recipient, and other information as requested by the Joint Legislative Commission on Governmental Operations. A written copy of the report shall also be sent to the Legislative Library by November 1 each year.

(b) Any non-State entity as that term is defined in G.S. 143C-1-1 that receives, uses, or expends any funds from the ~~Commission~~ Board under this Article is subject to the applicable reporting requirements of G.S. 143C-6-14."

**SECTION 6.11.(j)** G.S. 143-723 is repealed.

**SECTION 6.11.(k)** G.S. 143C-9-3 is repealed.

**SECTION 6.11.(l)** 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.(m)** 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) as credited to Budget Code 69430 shall be transferred from that Code 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.(n)** From funds available to the General Fund pursuant to this section, the funds shall be used as follows:

(1) Funds to the Office of the Attorney General for the administration and oversight of the Master Settlement Agreement in the amount of two hundred thousand dollars ($200,000).

(2) One million dollars ($1,000,000) to the Department of Agriculture and Consumer Services for tobacco grants pursuant to subsections (g) and (h) of this section.

(3) Two million twenty-seven thousand seven hundred twenty-five dollars ($2,027,725) for the ChecKmeds program.

(4) Two million two hundred ninety-four thousand seven hundred sixty-five dollars ($2,294,765) for the Medication Assistance Program.

(5) Ten million dollars ($10,000,000) to a reserve account for the Division of Public Health. The Division shall develop a plan for the use of these funds that addresses the following:

a. Tobacco use prevention, with an emphasis on adolescents and young adults.

b. Prevention of chronic illnesses and conditions – obesity, heart disease, stroke, cancer, diabetes, and asthma.

c. Health disparities amongst populations disproportionately affected by the diseases listed sub-subdivision b. of this subdivision.

**SECTION 6.11.(o)** The Health and Wellness Trust Fund Commission and the Tobacco Trust Fund Commission shall develop a plan to phase out existing grant programs and staff by December 31, 2011.

**SECTION 6.11.(p)** Any funds remaining in the Health and Wellness Trust Fund and the Tobacco Trust Fund on December 31, 2011, shall revert to the General Fund.

**COMPENSATION LIMITATIONS FOR GRANTEE ORGANIZATIONS RECEIVING STATE FUNDS**

**SECTION 6.12.(a)** In addition to the requirements of Part 3 of Article 6 of Chapter 143C of the General Statutes, or any other provision of law, any private organization that is a grantee as defined by G.S. 143C-6-23(a)(2) shall impose an annual salary cap limiting the amount of salary its full- and part-time employees may be paid from State funds in accordance with the schedule set forth in subsection (b) of this section.

**SECTION 6.12.(b)** The annual salary cap limitation on the amount of State funds that can be used to pay a grantee's employee salaries are established by this subsection for the 2011-2013 fiscal biennium as follows:

(1) For grantees receiving:

a. Over ten million dollars ($10,000,000) annually in total State funds, the annual salary cap limitation is one hundred thousand dollars ($100,000).

b. 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).
c. 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).
d. 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).
e. Less than one million dollars ($1,000,000) annually in total State funds, the annual salary cap limitation is sixty thousand dollars ($60,000).

(2) Part-time employees shall be compensated on a pro rata basis in accordance with this schedule.

(3) No State funds may be used to support the costs of any position with an annual salary in excess of two hundred fifty thousand dollars ($250,000).

**SECTION 6.12.(c)** The limitations imposed by this section do not apply to salaries capped pursuant to the provisions of Parts X and XIV of this act.

**SECTION 6.12.(d)** The provisions of G.S. 143C-6-23(f) apply to violations of this section.

**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.

**STATE-OWNED DISPOSABLE ASSETS**

**SECTION 6.15.** Definition. – For purposes of this section, the term "State-owned disposable assets" or "assets" means State-owned land, buildings, and other assets that are unused, underused, or do not involve a core function of government. The Department of Administration, in consultation with all other affected State departments, agencies, and institutions, shall do all of the following:

(1) Develop criteria to be considered prior to the sale of assets. The criteria shall include all of the following factors:
   a. The condition of the property.
   b. The extent to which it meets the purpose for which it was intended.
   c. The future needs of the State to perform the service intended at the location.
   d. The best and most cost-effective manner in which these future needs can be serviced.
   e. The practicability of moving the function of the services performed at a location to another area that might reduce acquisition, construction, and labor costs without diminishing the quality of service.
   f. The manner in which an asset should be (i) sold or retained, (ii) renovated, (iii) expanded for future use, or (iv) sold with a leaseback.
   g. Other recommendations regarding use of the asset.

(2) Determine whether the highest and best use is being made of the asset.

(3) Review assets to determine whether an agency has any property that meets the criteria as set forth in this section.

(4) Examine current State law to determine amendments to allow for the most efficient and effective disposition of assets.

The Department may retain consultants to assist with the accomplishment of the objectives set forth in this section. The Department of Administration shall make an interim report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Program Evaluation Division by no later than December 31, 2011, regarding its findings and recommendations and the progress in implementing this section.

**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 | $ 100,000 | $ 100,000 |
| IT Fund Balance June 30 | $2,454,934 | $1,227,467 |
| **Total Funds Available** | **$7,013,076** | **$7,485,609** |

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 | $1,064,148 | $1,064,148 |
| Enterprise Project Management Office | $1,673,285 | $1,673,285 |
| Architecture and Engineering | $ 648,000 | $ 648,000 |
| Criminal Justice Information Network | $ 166,422 | $ 166,422 |
| Statewide IT Procurement | $0 | $0 |
| ITS Overhead Reduction | ($91,486) | ($91,486) |
| Subtotal Information Technology Operations | $4,059,716 | $4,059,716 |

| | | |
|---|---|---|
| Information Technology Projects | | |
| State Portal | $0 | $0 |
| IT Consolidation | $1,320,893 | $ 820,893 |
| Transfer to OSC for Data Integration | $ 100,000 | $ 100,000 |
| Subtotal Information Technology Projects | $1,420,893 | $ 920,893 |
| Data Integration License Funding Transfer to State Agencies | $ 200,000 | $2,400,000 |
| Position Transfer to Office of State Budget and Management | $ 105,000 | $ 105,000 |
| **Total** | **$5,785,609** | **$7,485,609** |

**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. 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 Operations 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)** 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 one hundred thousand dollars ($100,000) 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 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 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)** 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. 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 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 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**

**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 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 to be implemented during the 2011-2013 and 2013-2015 fiscal 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 potential cost.
  b. Detailed information on the anticipated total cost of ownership of the portal and any applications proposed for implementation during that period, to include the amount of any payments to be made to vendors supporting the project for each application and the portal as a whole.
  c. A detailed State governance structure to provide oversight of portal operations. This oversight shall include the review of any new functions and of rates associated with the operation of the portal.
(2) A funding model for the implementation that does not increase the cost of services for any citizen of the State or reduce the receipts or other funding currently available to State agencies or included in appropriations for the 2011-2013 fiscal biennium. Any fees and other charges that may be required to support the portal shall not be collected from agencies without General Assembly approval.
(3) If outsourced, a detailed, fully executable plan to return portal operations to the State, with associated costs.

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

**SECTION 6A.10.(d)** Any fees or other charges collected under this section for the use of the State portal or any supporting functions shall be:

(1) Collected by the Department of Administration only and not by a private vendor.
(2) Deposited in the General Fund.

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

**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.

**COMPREHENSIVE, ENTERPRISE-LEVEL DATA INTEGRATION CAPABILITY**

**SECTION 6A.13.(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, OSC shall update the BEACON Strategic Plan for Data Integration by March 1, 2012, 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 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 is 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.13.(b)** 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. 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) Develop and issue a request for information to determine the range of options available to provide automated fraud detection to State agencies.
(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) Develop and issue a request for proposal to solicit bids to provide automated fraud detection. The committee may choose to make payments to vendors contingent on producing savings.
(6) Review proposals and consider selecting multiple vendors, evaluating the requirements and information technology applications of specific State agencies participating in the process.
(7) Evaluate savings resulting from each effort.
(8) Beginning October 1, 2011, provide quarterly reports to the General Assembly.
(9) Provide recommendations to the General Assembly on future initiatives.

**SECTION 6A.13.(c)** Of the funds appropriated to the Information Technology Fund, one hundred thousand dollars ($100,000) shall be appropriated to support this initiative.

**SECTION 6A.13.(d)** There is created a Data Integration Steering Committee that shall have responsibility for providing oversight for all data integration efforts in the State. The Committee shall be housed in and supported by the Office of the State Controller.

**SECTION 6A.13.(e)** 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 connections to potential vendors. Current members of the General Assembly shall not serve as members of this Committee.

**SECTION 6A.13.(f)** The Director of the Office of State Budget and Management, the State Chief Information Officer, the Secretary of Health and Human Services, and the State Treasurer shall serve as advisory members.

## PART VII. PUBLIC SCHOOLS

### EDUCATION REFORM IN NORTH CAROLINA

**SECTION 7.1.(a)** It is the intent of the General Assembly that the children of North Carolina are ready to succeed when they start school, learn the appropriate foundational education in the early grades, are prepared for a career or higher education upon graduation, and have job and learning skills appropriate to the global economy.

**SECTION 7.1.(b)** To implement this, the Joint Education Oversight Committee shall study the following and report to the 2012 Regular Session of the 2011 General Assembly with a comprehensive plan, including implementation dates and schedules, to accomplish this vision:

(1) Elementary and secondary education. – It is a priority of the General Assembly that by the end of third grade, North Carolina children receive a foundational education in reading and mathematics upon which to build future educational achievement. Further, it is a priority that children in all grades receive quality education from high-quality teachers that are ready and able to teach and that children are promoted in an educationally appropriate manner. To that end, the Committee shall study the following:
  a. Teacher tenure and its relationship with student performance.
  b. Teacher pay and its relationship with student performance, including the following:
    1. Salary supplements for employees with master's degrees and national board certification, and their relationship with student performance.
    2. Methods of implementing a performance pay plan for school employees.
  c. Strategies for reducing teacher paperwork to assist teachers in spending more time with students.
  d. Kindergarten as a transition year between pre-K and elementary education, including the following:
    1. Kindergarten specific class size ratios.
    2. Effectiveness of teacher assistants.
  e. Reducing teacher-student ratio to 1:15 in first through third grades and its relationship with student performance.
  f. Specific reasons why students drop out and reasons why at-risk students decide to stay in school. In studying this, the Committee shall review dropout prevention programs implemented across the State to determine the effectiveness of different approaches.
  g. The effectiveness of various diagnostic tools in improving student performance.

h. District size and its relationship with student performance and school finance.
i. State funding formulas. In its examination and review, the Committee shall determine which funding formulas maximize district flexibility and parental choice.
j. Course offerings, including the existence of duplicative courses of study in public and private secondary and postsecondary institutions in each local school administrative unit or county.
k. Alternative course delivery methods, including virtual schools and off-site courses.
l. Strategies to reduce the number of students that receive special education accommodations under the federal Individuals with Disabilities Education Act and its implementing regulations.
m. The advisability, costs, and barriers to increasing public access to value-added assessments such as the Education Value Added Assessment System and local school administrative unit financial information.
n. School and district accreditation and its relationship with student performance.
o. The advisability, costs, and barriers to adding additional information to State Public School Report Cards, including productivity measures, compensation of personnel, and value-added scores.
p. The amount of school district resources used for advocacy, including funds paid to organizations that employ lobbyists and government relations personnel.
q. The advisability, costs, potential savings, and barriers to privatization of local school administrative unit services, including food service, transportation, cleaning, landscaping, and resource officers.
r. Strategies for measuring and strengthening academic achievement in middle schools.

(2) Transition from high school. – It is a priority of the General Assembly that high school graduates enter the workforce or higher education fully prepared. To that end, the Committee shall study the following:
a. 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, including the following:
1. Ensuring clear, rigorous secondary school standards, such as using college assessment tests in high school, including reviewing models in Florida and California, and using college assessment tests as entrance requirements for universities.
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.
b. The most efficient and effective way to provide opportunities for high school students to access higher education, including the following:
1. Models of specific instructional pathways to higher education, including the following:
I. A Career Technical Education Pathway (CTE), leading to a certificate or diploma aligned with one or more high school Tech Prep Career Clusters.

II. A College Transfer Pathway leading to a college transfer certificate requiring successful completion of eight college transfer courses, including English and Mathematics.

III. A school-specific pathway, including Learn and Earn schools, the iSchool of the University of North Carolina at Greensboro, and other Cooperative and Innovative High Schools approved under Part 9 of Article 16 of Chapter 115C of the General Statutes.

IV. Other pathways, including the Governor's Proposed Career and College Promise Program.

2. Revising statutes for high school students in higher education.

(3) Higher education. – It is a priority of the General Assembly that the State's higher education system produce college graduates in the most efficient and effective manner possible, to improve productivity and public accountability for performance in postsecondary education, and ultimately to increase the educational level and earning potential of the State. To that end, the Committee shall study the following:

a. A revised set of accountability measures and performance standards by which to evaluate and measure student progress and student success in the North Carolina Community College System, as described in Section 8.14 of this act, including how to incorporate these measures into formula funding.

b. Ways to increase transparency in the university system spending and revenues.

c. Other states' performance funding systems, including efforts in Ohio, Florida, and Washington.

d. Ways to increase college graduation rates by funding based on performance.

e. The impact of directing more students to the community colleges for their freshman and sophomore years of a four-year degree, including requiring a certificate of transfer from the North Carolina Community College System before transferring to The University of North Carolina System.

f. Faculty class loads at the constituent institutions of the North Carolina Community College System and The University of North Carolina.

**SECTION 7.1.(c)** In all cases, any program implemented needs to be structured so that ongoing, evaluable performance and outcome data is available.

**SECTION 7.1.(d)** Funds appropriated to implement this section may be used by the Committee to hire one or more external consultants to complete these studies.

**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 ninety-eight dollars and fifty-five cents ($3,598.55) 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 eighty-three dollars and fifty-two cents ($1,083.52) per child for fiscal year 2011-2012 and one thousand eighty-three dollars and twenty cents ($1,083.20) 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."

**TEXTBOOKS**

**SECTION 7.11.** The State Board of Education shall not adopt any new textbooks prior to July 1, 2013.

**SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING**

**SECTION 7.12.(a)** Funds for Small School Systems. – Except as provided in subsection (b) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of fewer than 3,175 students and (ii) to each county school administrative unit with an average daily membership from 3,175 to 4,000 students if the county in which the local school administrative unit is located has a county-adjusted property tax base per student that is below the State-adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,175 to 4,000 students. The allocation formula shall do all of the following:

(1) Round all fractions of positions to the next whole position.

(2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four and provide seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or fewer.

(3) Provide additional program enhancement teachers adequate to offer the standard course of study.

(4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.

(5) Provide a base for the consolidated funds allotment of at least seven hundred seventeen thousand three hundred sixty dollars ($717,360), excluding textbooks, for the 2011-2012 fiscal year and a base of seven hundred seventeen thousand three hundred sixty dollars ($717,360) for the 2012-2013 fiscal year.

(6) Allot vocational education funds for grade 6 as well as for grades 7-12. If funds appropriated for each fiscal year for small school system supplemental funding are not adequate to fully fund the program, the State Board of Education shall reduce the amount allocated to each county school administrative unit on a pro rata basis. This formula is solely a basis for distribution of supplemental funding for certain county school administrative units and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula also is not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for such county administrative units.

**SECTION 7.12.(b)** 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 7.12.(c)** Phase-Out Provisions. – If a local school administrative unit becomes ineligible for funding under this formula because of (i) an increase in the population of the county in which the local school administrative unit is located or (ii) an increase in the county-adjusted property tax base per student of the county in which the local school administrative unit is located, funding for that unit shall be continued for seven years after the unit becomes ineligible.

**SECTION 7.12.(d)** Definitions. – As used in this section, the following definitions apply:

(1) "Average daily membership" means within two percent (2%) of the average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual adopted by the State Board of Education.

(2) "County-adjusted property tax base per student" means the total assessed property valuation for each county, adjusted using a weighted average of the three most recent annual sales assessment ratio studies, divided by the total number of students in average daily membership who reside within the county.

(3) "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.

(4) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(5) "State-adjusted property tax base per student" means the sum of all county-adjusted property tax bases divided by the total number of students in average daily membership who reside within the State.

(6) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(7) "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 during the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

**SECTION 7.12.(e)** 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 7.12.(f)** Use of Funds. – Local boards of education are encouraged to use at least twenty percent (20%) of the funds they receive 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.

**ELIMINATION OF REPORTING REQUIREMENTS**

**SECTION 7.13.(a)** 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.(b)** 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.(c)** 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(e), 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.(d)** G.S. 115C-105.47 is repealed.

**SECTION 7.13.(e)** G.S. 115C-102.6C is repealed.

**SECTION 7.13.(f)** G.S. 115C-102.6D(d) is repealed.

**SECTION 7.13.(g)** 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.(h)** Section 7.61(b) of S.L. 2005-276, as rewritten by Section 7.22(d) of S.L. 2010-31, is repealed.

**ALLOTMENT OF PRINCIPALS**

**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)** This section applies only to schools created after July 1, 2011.

**TRANSFER OF FEDERAL AGRICULTURAL EDUCATION FUNDS**

**SECTION 7.15.** The Agricultural Education Program in the Department of Agricultural and Extension Education at North Carolina State University shall develop the secondary agricultural education curricula. The Program shall recommend the curricula and corresponding assessment instruments to the State Board of Education, which shall adopt the curricula for inclusion in the Standard Course of Study. This curricula shall include as part of its core content the Future Farmers of America (FFA) student youth organization and the Supervised Agricultural Experience learning program.

Effective with the 2011 federal grant, the State Board of Education shall transfer a prorated share of funds from all federal Career and Technical Education funds available for State-level usage to the Agricultural Education and FFA Program housed in the Department of Agricultural and Extension at North Carolina State University. The transfer of funds shall be a percentage of the total based upon the grades 9-12 duplicated agricultural education enrollment as compared to the total career and technical education grades 9-12 duplicated enrollment. These funds shall be used to support the secondary Agricultural Education Program State-level administration, leadership, curriculum and professional development, operations, innovations and expansions, and the FFA and the Supervised Agricultural Education learning program.

**GEOGRAPHICALLY ISOLATED SCHOOLS**

**SECTION 7.16.** Notwithstanding any other provision of this act, there shall be no reduction in funding for additional teacher positions at geographically isolated schools as defined by section 7.26 of S.L. 2009-451. The recurring reduction for instructional support shall be increased by one hundred ninety-two thousand thirty-five dollars ($192,035) recurring for fiscal year 2011-2012 and four hundred eleven thousand five hundred and three dollars ($411,503) for fiscal year 2012-2013.

**SCHOOL CALENDAR PILOT PROGRAM**

**SECTION 7.17.** The State Board of Education shall establish a school calendar pilot program in the Wilkes 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 180 days or 1,000 hours of instruction covering at least nine calendar months. Notwithstanding G.S. 115C-84.2(d), the opening date for students 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 180 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.

**PERFORMANCE PAY MODEL PROGRAM**

**SECTION 7.18.** The State Board of Education shall establish a performance pay model program. A local school administrative unit that is approved by the State Board of Education as a performance pay model unit may use State funds, except for funds allotted for salaries, to implement a performance pay model.

**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 and teacher assistants. 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. Allocation of teachers and 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 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 ADM dollar allotments 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 reduction to ADM dollar allotments 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 ADM dollar allotments 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 ADM dollar allotments 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)** The State Board of Education shall adopt a Reduction in Force policy that is consistent across all local school administrative units. Under the policy, the following criteria shall apply to local school administrative units conducting any necessary reductions in force:

(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.

The State Board of Education 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)** Notwithstanding any other provision of this act, the Department of Public Instruction shall not close the Governor Morehead School for the Blind, the Eastern North Carolina School for the Deaf, or the North Carolina School for the Deaf (the "residential schools") nor consolidate all operations of any of the residential schools on the campus of another residential school until an enactment of the General Assembly instructs the Department to do so.

**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.

**SIXTY-FIVE PERCENT OF SCHOOL FUNDING MUST BE USED FOR CLASSROOM INSTRUCTION**

**SECTION 7.26.(a)** Article 30 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-408.1. Duty to ensure that sixty-five percent of State funds for the operations of the public schools are used for classroom instruction.**

Notwithstanding any other provision of law, the State Board of Education shall modify its allotment formulas, modify its rules regarding the expenditure of State funds, and transfer funds, as necessary, to ensure that each local administrative unit spends on classroom instruction at least sixty-five percent (65%) of the State funding it receives for the operations of the public schools. The State Board of Education shall adopt rules utilizing the existing purpose codes that are associated with instructional expenditures to implement this section."

**SECTION 7.26.(b)** This section applies to expenditures for school years beginning with the 2012-2013 school year.

## 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.(a)** 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.

**SECTION 8.8.(b)** Of the funds appropriated to the Community Colleges System Office for the 2011-2012 fiscal year for equipment, the State Board of Community Colleges shall allocate the sum of two hundred fifty thousand dollars ($250,000) to Forsyth Technical Community College. These funds shall be used only for the purpose of building and equipping the Stokes County multicampus site. These funds shall not be considered for a management flexibility reduction.

**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."

**MANAGEMENT FLEXIBILITY REDUCTION/COMMUNITY COLLEGES**

**SECTION 8.11.** The management flexibility reduction for the North Carolina Community College System shall be allocated by the State Board of Community Colleges in a manner that accounts for the unique needs of each college and provides for the equitable distribution of funds to the institutions consistent with G.S. 115D-5(a). Before taking reductions to instructional budgets, the community colleges shall consider reducing budgets for senior and middle management personnel and for programs that have both low enrollment and low postgraduate success. Colleges may, however, reduce funds from basic skills, curriculum, and continuing education programs. Colleges shall minimize the impact on student support services and on the retraining of dislocated workers. The community colleges shall also review their institutional funds to determine whether there are monies available in those funds that can be used to assist with operating costs before taking reductions in instructional budgets.

There shall be no reduction in funds allocated to Rowan-Cabarrus Community College for the Biotechnology Training Center at the North Carolina Research Campus.

**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 for the training of personnel by the following:

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 section is projected to result in a reduction of up to forty-three percent (43%) reduction in the number of curriculum and continuing education courses provided to prisoners.

**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.

**LIMITATION ON COMMUNITY COLLEGE TUITION**

**SECTION 8.17.** Notwithstanding G.S. 115D-5 or G.S. 115D-39, the tuition for community college curriculum courses and the fees for community college continuing education courses for the 2011-2013 fiscal biennium shall not exceed the amounts provided for in this act.

## 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, no reduction shall be made to funding for any of the following:

(1) Hickory Metro Higher Education Center.
(2) Need-Based Financial Aid.
(3) Aid to Private Colleges.
(4) Joint Graduate School of Nanoscience and Nanoengineering at North Carolina Agricultural and Technical State University and the University of North Carolina at Greensboro.
(5) The North Carolina Research Campus.

**SECTION 9.6.(c)** In allocating the management flexibility reduction, State funds for agricultural research stations operated by The University of North Carolina shall not be reduced in either fiscal year of the biennium by more than ten percent (10%) from the Governor's Recommended Continuation Budget for the 2011-2013 fiscal biennium.

**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 eighty-nine million dollars ($89,000,000) 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 eighty-nine million dollars ($89,000,000) 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**

**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.

**LIMIT CERTAIN FINANCIAL AID GRANTS TO THE TRADITIONAL TIME PERIOD REQUIRED TO EARN A BACCALAUREATE DEGREE**

**SECTION 9.11.(a)** Except as otherwise provided by this subsection, 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.

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)** G.S. 116-21.3(d) reads as rewritten:

"(d) ~~A legislative tuition grant authorized under G.S. 116-21.2(a) shall be reduced by twenty-five percent (25%) for any individual student who has completed 140 semester credit hours or the equivalent of 140 semester credit hours.~~Except as otherwise provided by this subsection, no student shall receive a legislative tuition grant under G.S. 116-21.2(a) 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 institution 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 legislative tuition grant under G.S. 116-21.2(a) for more than 11 full-time academic semesters or its equivalent if enrolled part-time.

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. The State Education Assistance Authority shall establish the appropriate procedures to implement the additional semester extension provided by this subsection."

**SECTION 9.11.(c)** G.S. 116-43.5(f) reads as rewritten:

"(f) ~~Reduction of Grant Amount for Certain Students. – A State grant authorized by this act shall be reduced by twenty-five percent (25%) for any individual student who has completed 140 semester credit hours or the equivalent of 140 semester credit hours.~~Limit Grant Amount to Standard Graduation Time Period. – Except as otherwise provided by this subsection, no student shall receive a State grant under this section for more than four full academic years, unless the student is enrolled in a program officially designated by the institution 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 State grant under this section for more than five full academic years.

Upon application by a student, the student may receive a State grant under this section 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. The State Education Assistance Authority shall establish the appropriate procedures to implement the additional semester extension provided by this subsection."

**SECTION 9.11.(d)** 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 and North Carolina Community College need-based grants, legislative tuition grants, and State grants under G.S. 116-43.5 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 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, legislative tuition grants, and State grants under G.S. 116-43.5 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 licensure programs and 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.(e)** Subsections (a), (b), and (c) of this section are 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 CERTAIN UNC TUITION WAIVERS FOR NONRESIDENT STUDENTS**

**SECTION 9.13.(a)** G.S. 116-143.6 is repealed.

**SECTION 9.13.(b)** G.S. 116-143(c) reads as rewritten:

"(c) Inasmuch as the giving of tuition and fee waivers, or especially reduced rates, represent in effect a variety of scholarship awards, the said practice is hereby prohibited except when expressly authorized by ~~statute or by the Board of Governors of The University of North Carolina; and, furthermore, it is hereby directed and required that all budgeted funds expended for scholarships of any type must be clearly identified in budget reports. The Board of Governors of The University of North Carolina shall not authorize a reduced rate of tuition for the special talent of athletics.~~statute or session law."

**SECTION 9.13.(c)** G.S. 116-143.5 is repealed.

**SECTION 9.13.(d)** The Prospective Teacher Scholars program that was begun as a pilot program under Section 9.9 of S.L. 2002-126 is abolished.

**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."

**UNC NEED-BASED FINANCIAL AID PROGRAM AND UNC MANAGEMENT FLEXIBILITY**

**SECTION 9.17.** Notwithstanding any other provision of this act, the General Fund appropriation to the Board of Governors of The University of North Carolina for the UNC Need-Based Financial Aid Program for the 2011-2012 fiscal year and for the 2012-2013 fiscal year shall be increased by the sum of eight million eight hundred fifty-nine thousand two hundred dollars ($8,859,200) in each fiscal year and the management flexibility reduction for The University of North Carolina shall be increased for the 2011-2012 fiscal year and for the 2012-2013 fiscal year by the sum of eight million eight hundred fifty-nine thousand two hundred dollars ($8,859,200).

## 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.

(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.

(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. 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.

**EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS**

**SECTION 10.5.(a)** Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than eight percent (8%) 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. The North Carolina Partnership for Children, Inc., shall develop a single statewide contract management system that incorporates features of the required standard fiscal accountability plan described in G.S. 143B-168.12(a)(4). All local partnerships shall be required to participate in the contract management system and shall be directed by the North Carolina Partnership for Children, Inc., to collaborate, to the fullest extent possible, with other local partnerships to increase efficiency and effectiveness.

**SECTION 10.5.(b)** G.S. 143B-168.12(a)(5) is repealed.

**SECTION 10.5.(c)** The North Carolina Partnership for Children, Inc., shall not use more than eighty thousand dollars ($80,000) in funds from the General Fund for the salary of any individual employee. A local partnership shall not use more than sixty thousand dollars ($60,000) in funds from the General Fund for the salary of any individual employee. Nothing in this subsection shall be construed to prohibit the North Carolina Partnership for Children, Inc., or a local partnership from using non-State funds to supplement the salary of an employee employed by the North Carolina Partnership for Children, Inc., or the local partnership.

**SECTION 10.5.(d)** The North Carolina Partnership for Children, Inc., and all 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 Board of Directors of the North Carolina Partnership for Children, Inc.

(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.(e)** The North Carolina Partnership for Children, Inc., and 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 North Carolina Partnership for Children, Inc., and the local partnerships are required to match, contributions of cash shall equal to at least ten percent (10%) and in-kind donated resources equal to no more than three percent (3%) for a total match requirement of thirteen percent (13%) for each fiscal year. The North Carolina Partnership for Children, Inc., may carry forward any amount in excess of the required match for a fiscal year in order to meet the match requirement of the succeeding 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 the North Carolina Partnership for Children, Inc., or the 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 North Carolina Partnership for Children, Inc., or the local partnership.
(8) Be reported to the North Carolina Partnership for Children, Inc., or 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 North Carolina Partnership for Children, Inc., 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.(f)** The Department of Health and Human Services shall continue to implement the performance-based evaluation system.

**SECTION 10.5.(g)** The Department of Health and Human Services and the North Carolina Partnership for Children, Inc., 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.(h)** 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 as approved by the North Carolina Partnership for Children, Inc. 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.(i)** For fiscal years 2011-2012 and 2012-2013, the local partnerships shall spend an amount for child care subsidies that provides at least fifty-two million dollars ($52,000,000) for the TANF maintenance of effort requirement and the Child Care Development Fund and Block Grant match requirement.

**SECTION 10.5.(j)** For fiscal years 2011-2012 and 2012-2013, local partnerships shall not spend any State funds on marketing campaigns, advertising, or any associated materials. Local partnerships may spend any private funds the local partnerships receive on those activities.

**SECTION 10.5.(k)** The North Carolina Partnership for Children, Inc., and its Board shall establish policies that focus the North Carolina Partnership for Children, Inc.'s mission on improving child care quality in North Carolina for children from birth to five years of age. North Carolina Partnership for Children, Inc.-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.(l)** It is the intent of the General Assembly that the North Carolina Partnership for Children, Inc., implement an evidence-based pilot literacy program that improves literacy of children from birth through five years of age and increases children's chances of success in school. An annual evaluation of the pilot literacy program shall access the goals and intended outcomes of the evidence-based pilot literacy program.

**SECTION 10.5.(m)** The Legislative Research Commission is authorized to study the cost, quality, consumer education, and outcomes of the North Carolina Partnership for Children, Inc.'s 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 Services 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 the North Carolina Partnership for Children, Inc., 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.(n)** 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 "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.

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 Division of Child Development and Early Education, eliminate the remaining positions, and use position elimination savings for the purpose of funding prekindergarten students.

**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 existing "child find" methods at-risk children are served within the Division of Child Development and serve at-risk children regardless of income, up to twenty percent (20%) of the four-year-olds served. 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 is ordered to active duty by the proper authority within the last 18 months or 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.

**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 shall allow for exemptions in nonstar-rated programs, such as religious programs or other currently allowed arrangements, and continue to pay for child care in these situations.

**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.

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 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.

**JOHNSTON COUNTY LME ADMINISTRATIVE FUNDING**

**SECTION 10.8A.** Notwithstanding G.S. 122C-115(a1), the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall not further reduce the allocation of administrative funding to the Johnston County Area Mental Health, Developmental Disabilities, and Substance Abuse Authority for the 2011-2012 fiscal year as a consequence of the total population of the catchment area served.

**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 (DOC) 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 twenty million dollars ($20,000,000).

**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 with fund balance availability and not further reduce services beyond the amount identified in subsection (a) of this section.

**SECTION 10.11.(e)** LMEs are directed to spend their unreserved, undesignated fund balance on services, commensurate with the reduction directed by the Division. Quarterly reports shall be submitted to the Division by LMEs to ensure expenditures from fund balance occurs 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 twenty million dollars ($20,000,000) 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 (or other interim oversight committees) 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 six million five hundred thousand dollars ($6,500,000) 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.

**DHHS REGULATORY FUNCTIONS STUDY AND PLAN**

**SECTION 10.17.(a)** The Department of Health and Human Services shall examine all regulatory functions performed by each of the divisions within the Department. By January

30, 2012, the Department shall make a report of its findings 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 all of the following:

(1) A summary of each division's regulatory functions.
(2) The purpose of each of the identified regulatory functions.
(3) The amount of any fee charged for the identified regulatory functions, along with the date and amount of the most recent fee increase.
(4) The number of full-time equivalent positions dedicated to the identified regulatory functions, broken down by division.
(5) Whether there is a federal requirement for, or a federal component to, any of the identified regulatory functions.
(6) Identification of overlap among the divisions within the Department and with other State agencies, with respect to the regulation of providers. For each area of overlap, the report shall specify all of the following:
    a. The name of each division and State agency that performs the regulatory function.
    b. How often each division or State agency performs the regulatory function.
    c. The total amount of funds expended by each division or State agency to perform the regulatory function.

**SECTION 10.17.(b)** The Department of Health and Human Services shall develop a plan to consolidate regulatory functions performed by the various divisions within the Department. The plan shall identify proposed position eliminations and anticipated savings as a result of the consolidation. The Department shall not implement the plan or consolidate any of its regulatory functions except as directed by an act of the General Assembly.

**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 five million dollars ($5,000,000) on a recurring basis. In achieving the reductions required by this section, the Department (i) shall minimize reductions to funds allocated to nonprofit organizations for the provision of direct services and (ii) shall not reduce funds allocated to nonprofit organizations to pay for direct services to individuals with developmental disabilities.

**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 for the Community-Focused Eliminating Health Disparities Initiative (CFEHDI) shall be used to provide grants-in-aid to community based organizations, faith based organizations, American Indian tribes, and local public health departments 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 shall focus on the use of preventive measures to eliminate or reduce health disparities in infant mortality, heart disease, cardiovascular disease, asthma, cancer, diabetes, and other conditions that disproportionately affect minority populations in this State. The Office of Minority Health shall coordinate and implement the grants-in-aid program authorized under this section.

**SECTION 10.21.(c)** In implementing the grants-in-aid program authorized by subsection (a) of this section, the Department of Health and Human Services may consider the feasibility of a three-year grant period. If approved, the grantee (i) shall not use more than five percent (5%) of the grant funds for indirect costs and (ii) shall be required at the end of the three-year grant period to demonstrate significant gains in addressing one or more of the health disparity focus areas identified in subsection (a) of this section.

**SECTION 10.21.(d)** Funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, for the CFEHDI shall be awarded as grants-in-aid to honor 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.(e)** By October 1, 2012, and annually thereafter, the Department of Health and Human Services 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 programs and local health departments received CFEHDI grants.

(2) The amount of funding awarded to each community program and local health department grantee.

(3) Which of the minority populations were served by community programs and local health department grantees.

(4) Which American Indian tribes, faith-based organizations, or community-based organizations were involved in fulfilling the goals and activities of each grant awarded to a local health department and what activities were planned and implemented by the community programs and local health departments to fulfill the community focus of the CFEHDI program.

(5) How the activities implemented by the community programs and local health departments 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)** The Secretary of the Department of Health and Human Services may utilize prior year earned revenue received for the new Medicaid Management Information System (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 new MMIS. In the event that 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, to utilize other overrealized receipts and funds appropriated to the Department to achieve the level of funding specified in this section for the MMIS.

**SECTION 10.29.(b)** The Department shall make full development of the replacement MMIS a top priority. During the development and implementation of 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 administration of the Health Information System.

The Department shall make every effort to expedite the implementation of the enhancements. The Office of Information Technology Services shall work in cooperation with the Department to ensure the timely and effective implementation of the MMIS and enhancements. The contract between the Department and the contract vendor shall contain an explicit provision requiring that the MMIS 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/DD, 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. Any contract between the Department and a vendor for the MMIS that does not contain the explicit provision required under this subsection is void on its face. Notwithstanding any other provision of law to the contrary, the Secretary of the Department does not have the authority to sign a contract for the MMIS if the contract does not contain the explicit provision required under this section.

**SECTION 10.29.(c)** Notwithstanding G.S. 114-2.3, the Department 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 MMIS. The counsel engaged by the Department shall review the MMIS contracts and amendments between the Department and the vendor to ensure that the requirements of subsection (b) of this section are met in their entirety.

**SECTION 10.29.(d)** The Department shall develop a revised comprehensive schedule for the development and implementation of the MMIS that fully incorporates federal and State project management and review requirements. The Department shall ensure that the schedule is as accurate as possible. Any changes to the design, development, and implementation schedule shall be reported as part of the Department's quarterly 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, and the Fiscal Research Division. This submission shall include a detailed explanation of schedule changes that have occurred since the initiation of the project. Any change to key milestones in either schedule 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, and the Fiscal Research Division with a full explanation of the reason for the change.

**SECTION 10.29.(e)** Beginning July 1, 2011, the Department shall make quarterly reports on changes in the functionality and projected costs of the MMIS. This report shall include any changes to MMIS vendor contracts and shall provide a detailed explanation for any 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, and the Fiscal Research Division. A copy of the final report on the contract award also shall be submitted to the Joint Legislative Commission on Governmental Operations.

**SECTION 10.29.(f)** 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 reporting identified in subsections (d) and (e) of 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.

**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.

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

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

b. The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need. These standards may be changed with the approval of the Director of the Budget.

c. The Department of Health and Human Services shall provide Medicaid coverage to 19- and 20-year-olds in accordance with federal rules and regulations.

d. Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.

(2) For the following Medicaid eligibility classifications for which the federal poverty guidelines are used as income limits for eligibility determinations, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines. The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to the following:

a. All elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines.

b. Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines and without regard to resources. Services to pregnant women eligible under this subsection continue throughout the pregnancy but include

only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy.

c. Infants under the age of one with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.

d. Children aged one through five with family incomes equal to or less than two hundred percent (200%) of the federal poverty guidelines and without regard to resources.

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. All services and payments are subject to the language at the end of this subsection. 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 shall not impose prior authorization requirements or other restrictions under the State Medical Assistance Program on medications prescribed for Medicaid recipients for the treatment of (i) mental illness, including, but not limited to, medications for schizophrenia, bipolar disorder, major depressive disorder or (ii) HIV/AIDS. Medications prescribed for the treatment of mental illness shall be included on the Preferred Drug List (PDL). The Department of Health and Human Services, Division of Medical Assistance, may initiate prior authorization for the prescribing of drugs specified for the treatment of mental illness by providers who fail to prescribe those drugs in accordance with indications and dosage levels approved by the federal Food and Drug Administration. 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:

a. Evidence-based criteria available regarding efficacy or safety of the covered treatments; and

b. 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 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.

**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; and

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; or
2. Multisystemic therapy or intensive in-home therapy services have been unsuccessful; or
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; or
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 180 days. Any exceptions granted will require for non-CABHAs an independent psychological or psychiatric assessment, for CABHAs, a psychological or psychiatric assessment that may be completed by the CABHA, and for both Child and Family Team review of goals and treatment progress, 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 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 upon Medicare fee schedules shall follow Medicare reductions but not Medicare increases unless federally required. The reductions authorized by this subdivision are subject to the following additional limitations:

a. Additional limitation on reductions for adult care home services. – Provider rates for adult care home services shall not be reduced below current levels.

b. Exceptions for certain providers. – The rate reduction applies to all Medicaid private and public providers with the following exceptions:

1. Federally qualified health centers.
2. Rural health centers.
3. State institutions.
4. Hospital outpatient.
5. Pharmacies.
6. Local health departments.
7. Critical Access Behavioral Health Agencies.
8. The State Public Health Laboratory.
9. The noninflationary components of the case-mix reimbursement system for nursing facilities.

(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 sixteenth 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. – Eliminate adult routine eye exams. Eye exams shall be restricted to cases in which a specific optical problem exists.

b. Durable medical equipment. – Negotiate a 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.

c. Specialized therapies. – For evaluations, re-evaluations, 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 to 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.

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.

**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.

**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. – The Department shall begin to transition all health benefit changes of the Program to 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 Plan 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")~~ DMA 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."

**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.

**NO INFLATIONARY MEDICAID PROVIDER RATE INCREASES**

**SECTION 10.43.** Notwithstanding any other provision of law, the Secretary of the Department of Health and Human Services shall not authorize any inflationary increases to Medicaid provider rates during the 2011-2013 fiscal biennium, except that inflationary increases for healthcare providers paying provider fees may occur if the State share of the increases can be funded with provider fees.

**MEDICAID RECIPIENT APPEALS**

**SECTION 10.44.** The Department of Health and Human Services shall review the appeals process for adverse Medicaid determinations for Medicaid recipients to examine whether it conforms with, or exceeds, the requirements of federal law.

**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.

**MEDICAID PROVIDER RATE ADJUSTMENTS**

**SECTION 10.46.(a)** Subject to the limitations contained in Section 10.37(a)(6) a. and b. of this act, the Secretary of Health and Human Services shall reduce Medicaid provider rates for all Medicaid providers by two percent (2%) 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 by a percentage equal to two percent (2%) plus a percentage sufficient to achieve the amount of savings that would have resulted if provider rates for physicians had been reduced by two percent (2%). The provider rate for inpatient hospital services shall be further reduced to offset any reduction or inflationary freeze attributable to outpatient hospital services or to critical access hospitals.

**SECTION 10.46.(b)** The rate reductions required by this section shall take effect in accordance with the following schedule:

(1) October 1, 2011. – The provider rate reductions required by subsection (a) of this section shall take effect no later than October 1, 2011. If effective after July 1, 2011, 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 subsection (a) of this section shall be adjusted to the level at which they

would have been without the adjustment required by subdivision (1) of this subsection.

**SECTION 10.46.(c)** No other adjustments to the provider rates for hospital outpatient or critical access hospital rates shall be made, except that hospital outpatient and critical access hospital rates may continue to be eligible for inflationary increases.

**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 ninety million dollars ($90,000,000) 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 healthcare 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, 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, in the following order, 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 eighteen million two hundred thousand dollars ($18,200,000) in the 2011-2012 fiscal year and twenty-nine million dollars ($29,000,000) 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 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."

**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.

(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.

**CONSOLIDATE BLIND, DEAF, AND VOCATIONAL REHABILITATION DIVISIONS**

**SECTION 10.57.(a)** On or before January 1, 2012, the Department of Health and Human Services shall consolidate the Division of Services for the Blind, the Division of Services for the Deaf and the Hard of Hearing, and the Division of Vocational Rehabilitation Services into one division within the Department for the provision of these services. The consolidation shall not eliminate or reduce any programs or services currently offered by the three Divisions.

**SECTION 10.57.(b)** Notwithstanding any other provision of this act, savings pursuant to the consolidation of the Divisions of Services for the Blind, Services for the Deaf and Hard of Hearing, and Vocational Rehabilitation Services shall be achieved through reductions in administrative staff, leased space, and other administrative or overhead costs associated with the consolidation of the three Divisions only.

**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 | $ 80,840,356 |
| 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 |
| 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 | 3,633,077 |
| 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 | | $ 64,042,813 |

**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) | 48,679,871 |
| 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 |
| 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.(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.(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 Service 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 Service 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 Service 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 Service 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 Service 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.

**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.

**AGRICULTURAL RESEARCH STATIONS OPERATING REDUCTION**

**SECTION 11.8.** Notwithstanding any other provision of this act, a recurring reduction for the operating expenses of the agricultural research stations of the Department of Agriculture and Consumer Services is increased by the sum of one hundred thousand dollars ($100,000) for the 2011-2012 fiscal year and the 2012-2013 fiscal year.

## 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.

**SECTION 13.3.(b)** All functions, powers, duties, and obligations previously vested in the Grade "A" Milk Sanitation Program within the Division of Environmental Health of the Department of Environment and Natural Resources are transferred to and vested in the Food and Drug Protection Division of the Department of Agriculture and Consumer Services by a Type I transfer, as defined in G.S. 143A-6.

**SECTION 13.3.(c)** 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.(d)** 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) On-Site Water Protection Section.
(3) Radiation Protection Section.
(4) Office of Education and Training.

**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 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)** Part 9 of Article 8 of Chapter 130A of the General Statutes is recodified as Article 28C of Chapter 106 of the General Statutes, to be entitled "Grade 'A' Milk Sanitation"; G.S. 130A-274 is recodified as G.S. 106-266.30; G.S. 130A-275 is recodified as G.S. 106-266.31; G.S. 130A-276 is recodified as G.S. 106-266.32; G.S. 130A-277 is recodified as G.S. 106-266.33; G.S. 130A-278 is recodified as G.S. 106-266.34; and G.S. 130A-279 is recodified as G.S. 106-266.35.

**SECTION 13.3.(l)** G.S. 106-266.30, as recodified under subsection (k) of this section, reads as rewritten:

"**§ 106-266.30. Definitions.**

The following definitions shall apply throughout this ~~Part:~~Article:

(1) "Grade 'A' milk" means fluid milk and milk products which have been produced, transported, handled, processed and distributed in accordance with the provisions of the rules adopted by the ~~Commission.~~Board of Agriculture.

(2) "Milk" means the lacteal secretion practically free from colostrum obtained by the milking of one or more cows, goats, or other lactating animals."

**SECTION 13.3.(m)** G.S. 106-266.31, as recodified under subsection (k) of this section, reads as rewritten:

"**§ 106-266.31. ~~Commission~~ Board to adopt rules.**

~~Notwithstanding the provisions of G.S. 106-267 et seq., the Commission is authorized and directed to~~The Board of Agriculture shall adopt rules relating to the sanitary production, transportation, processing and distribution of Grade "A" milk. The rules, in order to protect and promote the public health, shall provide definitions and requirements for: (i) the sanitary production and handling of milk on Grade "A" dairy farms; (ii) the sanitary transportation of Grade "A" raw milk for processing; (iii) the sanitary processing of Grade "A" milk; (iv) the sanitary handling and distribution of Grade "A" milk; (v) the requirements for the issuance, suspension and revocation of permits; and (vi) the establishment of quality standards for Grade "A" milk. The rules shall be no less stringent than the 1978 Pasteurized Milk Ordinance recommended by the U.S. Public Health Service/Food and Drug Administration as amended effective January 1, 1982. The ~~Commission~~ Board of Agriculture may adopt by reference the U.S. Public Health Service/Food and Drug Administration 1978 Pasteurized Milk ~~Ordinance, and any amendment thereto~~Ordinance, as amended."

**SECTION 13.3.(n)** G.S. 106-266.32, as recodified under subsection (k) of this section, reads as rewritten:

"**§ 106-266.32. Permits required.**

No person shall produce, transport, process, or distribute Grade "A" milk without first having obtained a valid permit from the ~~Department.~~Department of Agriculture and Consumer Services."

**SECTION 13.3.(o)** G.S. 106-266.33, as recodified under subsection (k) of this section, reads as rewritten:

"**§ 106-266.33. Duties of the Department.**

The Department of Agriculture and Consumer Services shall enforce the rules of the ~~Commission~~ Board of Agriculture governing Grade "A" milk by making sanitary inspections of Grade "A" dairy farms, Grade "A" processing plants, Grade "A" milk haulers and Grade "A" distributors; by determining the quality of Grade "A" milk; and by evaluating methods of handling Grade "A" milk to insure compliance with the provisions of the rules of the ~~Commission.~~Board of Agriculture. The Department of Agriculture and Consumer Services shall issue permits for the operation of Grade "A" dairy farms, processing plants and haulers in accordance with the provisions of the rules of the ~~Commission~~ Board of Agriculture and shall suspend or revoke permits for violations in accordance with the rules."

**SECTION 13.3.(p)** G.S. 106-266.34, as recodified under subsection (k) of this section, reads as rewritten:

"**§ 106-266.34. Certain other authorities of Department of Agriculture and Consumer Services not replaced.**

This ~~Part~~ Article shall not repeal or limit the Department of Agriculture and Consumer Services' authority to carry out labeling requirements, required butterfat testing, aflatoxin testing, pesticide testing, other testing performed by the Department of Agriculture and Consumer ~~Services~~ Services, and any other function of the Department of Agriculture and Consumer Services concerning Grade "A" milk ~~which~~ under any other Article under this Chapter that is not inconsistent with this Article."

**SECTION 13.3.(q)** G.S. 106-266.35, as recodified under subsection (k) of this section, reads as rewritten:

"**§ 106-266.35. Sale or dispensing of milk.**

Only milk that is Grade "A" pasteurized milk may be sold or dispensed directly to consumers for human consumption. Raw milk and raw milk products shall be sold or dispensed only to a permitted milk hauler or to a processing facility at which the processing of milk is permitted, graded, or regulated by a local, State, or federal agency. The ~~Commission~~ Board of Agriculture may adopt rules to provide exceptions for dispensing raw milk and raw milk

products for nonhuman consumption. Any raw milk or raw milk product dispensed as animal feed shall include on its label the statement "NOT FOR HUMAN CONSUMPTION" in letters at least one-half inch in height. Any raw milk or raw milk product dispensed as animal feed shall also include on its label the statement "IT IS NOT LEGAL TO SELL RAW MILK FOR HUMAN CONSUMPTION IN NORTH CAROLINA." "Sale" or "sold" shall mean any transaction that involves the transfer or dispensing of milk and milk products or the right to acquire milk and milk products through barter or contractual arrangement or in exchange for any other form of compensation including, but not limited to, the sale of shares or interest in a cow, goat, or other lactating animal or herd."

**SECTION 13.3.(r)** G.S. 130A-21(b) is recodified as a new section G.S. 106-266.36 in Article 28C of Chapter 106 of the General Statutes, as recodified by subsection (k) of this section, to have the catchline "Milk embargo."

**SECTION 13.3.(s)** G.S. 106-266.36, as recodified in subsection (r) of this section, reads as rewritten:

"**§ 106-266.36. Milk embargo.**

If the ~~Secretary of Environment and Natural Resources~~Commissioner of Agriculture 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,~~G.S. 106-266.31, the ~~Secretary of Environment and Natural Resources~~Commissioner of Agriculture 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.

The official by whom the milk was detained or embargoed shall petition a judge of the district or superior court in whose jurisdiction the milk is detained or embargoed for an order for condemnation of the article. If the court finds that the milk is misbranded or that it does not satisfy the milk sanitation rules adopted pursuant to ~~G.S. 130A-275,~~G.S. 106-266.31, either the milk shall be destroyed under the supervision of the petitioner or the petitioner shall ensure that the milk will not be used for human consumption as Grade "A" milk. All court costs and fees, storage, expenses of carrying out the court's order and other expense shall be taxed against the claimant of the milk. If, the milk, by proper labelling or processing, can be properly branded and will satisfy the milk sanitation rules adopted pursuant to ~~G.S. 130A-275,~~G.S. 106-266.31, the court, after the payment of all costs, fees, and expenses and after the claimant posts an adequate bond, may order that the milk be delivered to the claimant for proper labelling and processing under the supervision of the petitioner. The bond shall be returned to the claimant after the petitioner represents to the court either that the milk is no longer mislabelled or in violation of the milk sanitation rules adopted pursuant to ~~G.S. 130A-275,~~G.S. 106-266.31, or that the milk will not be used for human consumption, and that in either case the expenses of supervision have been paid."

**SECTION 13.3.(t)** 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.(u)** 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.(v)** G.S. 106-65.95, as recodified under subsection (u) of this section, reads as rewritten:

"**§ 106-65.95. Definitions.**

The following definitions shall apply throughout this ~~Part.~~Article:

...."

**SECTION 13.3.(w)** G.S. 106-65.96, as recodified under subsection (u) 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.(x)** G.S. 106-65.98, as recodified under subsection (u) 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.(y)** G.S. 106-65.99, as recodified under subsection (u) 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.(z)** G.S. 106-65.100, as recodified under subsection (u) 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.(aa)** G.S. 106-65.101, as recodified under subsection (u) 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.(bb)** G.S. 106-65.102, as recodified under subsection (u) 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.(cc)** G.S. 106-65.103, as recodified under subsection (u) 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.(dd)** G.S. 106-65.104, as recodified under subsection (u) 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.(ee)** G.S. 106-65.105, as recodified under subsection (u) 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.(ff)** G.S. 106-65.106, as recodified under subsection (u) 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.(gg)** G.S. 106-65.107, as recodified under subsection (u) 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.(hh)** 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.(ii)** 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.(jj)** 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.(kk)** 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.(ll)** 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~~ Public Health of the Department 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.(mm)** 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.(nn)** 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.(oo)** 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.(pp)** 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~~ Public Health of the Department.

...."

**SECTION 13.3.(qq)** 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~~ Public Health 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.(rr)** 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.(ss)** 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~~ Public Health 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.(tt)** 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.(uu)** 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.(vv)** 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.(ww)** 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.(xx)** 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.(yy)** 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.(zz)** 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.(aaa)** 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.(bbb)** 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.(ccc)** 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.(ddd)** 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.(eee)** 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.(fff)** 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.(ggg)** 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.(hhh)** 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.(iii)** 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.(jjj)** 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.(kkk)** 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.(lll)** 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.(mmm)** 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.(nnn)** 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.(ooo)** 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.(ppp)** G.S. 113-221.2, as recodified in subsection (ooo) 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.(qqq)** 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.(rrr)** G.S. 113-221.3, as recodified in subsection (qqq) 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.(sss)** 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.(ttt)** G.S. 113-221.4 as recodified in subsection (sss) 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.(uuu)** 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.(vvv)** 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.

**MODIFY ELIMINATION OF NON-MATCH POSITIONS IN REGIONAL OFFICES**

**SECTION 13.3A.** Of the non-match positions eliminated in items 104, 105, 107, 109, and 110 on page H18 of the Report on the Continuation, Expansion and Capital Budgets, the six positions listed in this section shall not be eliminated. DENR shall have the flexibility to select other positions supported by the General Fund, in the same dollar amount, to substitute for elimination.

(1) 60035967
(2) 60035965
(3) 60035966
(4) 60035968
(5) 60035957
(6) 60035972

**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.

**ADDITIONAL USES OF HAZARDOUS WASTE FEES**

**SECTION 13.5.** 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."

**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."

**USE OF FUNDS OBTAINED FROM CLOSING THE RALEIGH OFFICE OF THE DIVISION OF COASTAL MANAGEMENT**

**SECTION 13.10C.** Notwithstanding any other provision of this act, the Department of Environment and Natural Resources shall fund shift General Fund positions, operating expenses, or both to receipt support in the amount of one hundred nine thousand five hundred twenty-three dollars ($109,523) for the 2011-2012 fiscal year and the 2012-2013 fiscal year. These federal receipts were formerly used to support the one full-time receipt-supported position that is eliminated as a result of closing the Raleigh Office of the Division of Coastal Management of the Department of Environment and Natural Resources.

**FUNDS FOR DENR STUDY OF OIL AND GAS EXPLORATION IN NC**

**SECTION 13.10D.** Notwithstanding any other provision of this act, if House Bill 242, 2011 Regular Session becomes law, the Department of Environment and Natural Resources shall use the sum of one hundred thousand dollars ($100,000) of the nonrecurring funds appropriated to the Department of Commerce for Commerce State-Aid for the Institute of Regenerative Medicine at Wake Forest University for the 2011-2012 fiscal year to study the issue of oil and gas exploration in the State as provided in House Bill 242.

**FLEXIBILITY IN REDUCTIONS AT DENR REGIONAL OFFICES**

**SECTION 13.10E.** Notwithstanding any other provision of this act, the Department of Environment and Natural Resources shall have the flexibility to determine whether to eliminate vacant or filled match positions or non-match positions, whether to further reduce operating funds, or whether to do any combination of these in order to meet the total reduction under this act for each of the seven Regional Offices of the Department of Environment and Natural Resources for the 2011-2012 fiscal year and the 2012-2013 fiscal year.

**RESTORE CERTAIN POSITIONS AT DENR REGIONAL OFFICES**

**SECTION 13.10F.(a)** Notwithstanding any other provision of this act, the total reduction for eliminating positions at the seven Regional Offices of the Department of Environment and Natural Resources is decreased by four hundred twenty thousand eight hundred seventy-two dollars ($420,872) for the 2011-2012 fiscal year and for the 2012-2013 fiscal year, and the following positions shall not be eliminated at the seven Regional Offices:

60032353 Environmental Specialist
60032355 Environmental Program Supervisor II
60032405 Engineer Technician
60032414 Hydrogeologist
60032552 Processing Assistant IV
60032402 Engineer Technician
60032396 Engineer Technician
60032403 Engineer Technician
60034270 Environmental Health Regional Specialist

**SECTION 13.10F.(b)** Notwithstanding any other provision of this act, the Department of Environment shall reduce its costs by the sum of three hundred ten thousand

seventy-nine dollars ($310,079) for the 2012-2013 fiscal year by eliminating vacant positions the Department selects from across the Department, and the Department shall use these funds to decrease the reduction under subsection (a) of this section by the sum of three hundred ten thousand seventy-nine dollars ($310,079) for the 2012-2013 fiscal year.

**DENR CELL PHONE FUNDS REDUCTION**

**SECTION 13.10G.** Notwithstanding any other provision of this act, the General Fund recurring reduction for cell phones across the Department of Environment and Natural Resources is increased by the sum of twenty-two thousand four hundred fifty dollars ($22,450) for the 2011-2012 fiscal year and for the 2012-2013 fiscal year.

**DENR MOTOR FLEET MANAGEMENT FUNDS REDUCTION**

**SECTION 13.10H.** Notwithstanding any other provision of this act, the General Fund recurring reduction for motor fleet management expenditures across the Department of Environment and Natural Resources is increased by the sum of eighty-eight thousand three hundred forty-three dollars ($88,343) for the 2011-2012 fiscal year and for the 2012-2013 fiscal year.

**USE OF FUNDS/FOOD AND LODGING PROGRAM**

**SECTION 13.10I.** Notwithstanding any other provision of this act, the Division of Environmental Health shall not change the use of the four hundred thousand dollar ($400,000) appropriation originally intended for aid to counties for local food and lodging programs. The Division may not use those funds to pay for the costs to operate the State elements of the program. Counties will not receive a higher percentage of the food and lodging fee that would have offset not receiving the grant funds.

**REPEAL DENR REVIEW OF FEE SCHEDULES**

**SECTION 13.11.** G.S. 143B-279.2(4) is repealed.

**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 eight million dollars ($8,000,000) shall be used for the State Parks System for capital projects, repairs and renovations of park facilities, land acquisition, and to retire debt incurred for these purposes under Article 9 of Chapter 142 of the General Statutes;

(3) Up to four million two hundred thirty thousand dollars ($4,230,000) 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 seven hundred five thousand dollars ($705,000) 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."

**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.

**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.

**SECTION 13.23.(i)** Notwithstanding subsection (h) of this section, if House Bill 609, 2011 Regular Session becomes law, the Department of Environment and Natural Resources shall use eighty-three thousand dollars ($83,000) of funds available to the Department of Environment and Natural Resources for Water Resources projects for the 2011-2012 fiscal year to implement House Bill 609.

**SECTION 13.23.(j)** If House Bill 609, 2011 Regular Session becomes law, the Department of Environment and Natural Resources shall use eighty-three thousand dollars ($83,000) of the funds appropriated under this act to the Department of Environment and Natural Resources for the Green Square Operating Reserve for the 2012-2013 fiscal year to implement House Bill 609.

**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 of the Department of Agriculture and Consumer Services 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 of the Department of Agriculture and Consumer Services 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 dollars ($1,000,000) 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, a federal funding initiative that provides funds for military buffers; and
(3) The sum of six million dollars ($6,000,000) 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 budget for the 2011-2012 fiscal year, the transition from the Wildlife Resources Commission receiving sales tax proceeds to fund its budget to the Wildlife Resources Commission receiving an appropriation of eighteen million five hundred thousand dollars ($18,500,000) from the General Fund to fund its budget. The funds appropriated under this section shall be transferred to the Wildlife Resources Fund, as provided under G.S. 143-250, and shall be used for personal services expenditures only.

**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."

**MUSEUM OF NATURAL SCIENCES TEMPORARY WAGES**

**SECTION 13.30.** Notwithstanding any other provision of this act, the reduction in temporary wages for the Museum of Natural Sciences is decreased by the sum of one hundred thousand dollars ($100,000) for the 2011-2012 fiscal year and the 2012-2013 fiscal year.

**GREEN SQUARE OPERATING RESERVE**

**SECTION 13.31.** Notwithstanding any other provision of this act, the recurring appropriation to the Department of Environment and Natural Resources under this act for the Green Square Operating Reserve is decreased by the sum of one hundred thousand dollars ($100,000) for the 2011-2012 fiscal year and the 2012-2013 fiscal year.

**SOIL AND WATER AREA COORDINATOR POSITIONS AT DENR REGIONAL OFFICES**

**SECTION 13.32.** Notwithstanding any other provision of this act, the total reduction for eliminating positions at the seven Regional Offices of the Department of Environment and Natural Resources is decreased by three hundred sixty thousand two hundred seventy-eight dollars ($360,278) for the 2011-2012 fiscal year and the 2012-2013 fiscal year, and the following Soil and Water Coordinator positions shall not be eliminated at the seven Regional Offices:

| | | |
|---|---|---|
| 60032333 | Area Coordinator | $74,210 |
| 60032336 | Area Coordinator | $59,982 |
| 60032364 | Area Coordinator | $53,355 |
| 60032334 | Area Coordinator | $63,836 |
| 60032365 | Area Coordinator | $55,540 |
| 60032337 | Area Coordinator | $53,355 |

**FOREST RESOURCES OPERATING REDUCTION**

**SECTION 13.33.** Notwithstanding any other provision of this act, the recurring reduction for the operating expenses for the Division of Forest Resources of the Department of Environment and Natural Resources is increased by the sum of two hundred thousand dollars ($200,000) for the 2011-2012 fiscal year and the 2012-2013 fiscal year.

**PARKS AND RECREATION OPERATING REDUCTION**

**SECTION 13.34.** Notwithstanding any other provision of this act, the recurring reduction for the operating expenses for the Division of Parks and Recreation of the Department of Environment and Natural Resources is increased by the sum of sixty thousand two hundred seventy-eight dollars ($60,278) for the 2011-2012 fiscal year and the 2012-2013 fiscal year.

**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.

**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)** 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 create and maintain an electronic database as provided in subsection (c) of this section.

**SECTION 14.2.(c)** Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 2L. Monitor and Assess Job Creation.

"**§ 143B-437.111. Department of Commerce – public database of job creation, retention, and wage information.**

(a) Database. – The Department of Commerce shall create and maintain an electronic database available to the general public on the Internet that contains data on each business or joint private venture that the State, in whole or in part, has granted any discretionary economic development incentive after January 1, 2005, but not to include any project while under development or during competition with another state or nation.

(b) For the purposes of this Part, "economic incentives" includes, but is not limited to, any incentive provided through any of the following sources, or any successor to any of these sources:

(1) The Job Development Investment Grant.

(2) The One North Carolina Fund.

(c) The Department of Commerce shall update the database quarterly. The public Internet interface to the database must allow the user to search and prepare custom reports through an interactive menu and through a full text search engine. At a minimum, the data must contain all of the following:

(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 (or the county if undecided) of the site receiving the incentive.

(4) The name and title of at least two State officials or employees who may provide further information.

(5) The Department of Commerce tier designation of the county of physical location on the date awarded.

(6) The North American Industry Classification System six-digit code and NAICS category of business receiving the incentive.

(7) Text of any letter or public announcement of the incentive by the Governor or Department of Commerce.

(8) The sources and dollar value of State incentives by program name.

(9) The sources and dollar value of local government funds provided by any locality and the nature of local funding, including, but not limited to, cash;

fee-waivers; in-kind services; and donation of land, buildings, or other assets.

(10) The intended use of the incentive by any category or categories to which State law restricts or limits uses of incentive funds or, if not restricted, the intended purpose.

(11) The competing states or nations vying for the business receiving the incentive.

(12) A table identifying the number of created or retained job goals and the calendar date for achievement of job goals, and the actual jobs created or retained by those calendar dates.

(13) The average wage goal for the group of new full-time jobs being created or retained, the average wage actually obtained, and how actual wage amounts are documented.

(14) The projected cost per job created or retained, including State and local funds.

(15) An abstract or executive summary describing the findings of any fiscal impact analysis of the incentive on direct and any indirect tax collections compared to the State and local investment in the venture.

(16) An abstract or executive summary describing the findings of any economic analysis describing the impact of the incentive on North Carolina Gross Domestic Product.

(17) Any clawbacks or refunds received and any amounts owed but uncollected from the recipient.

"**§ 143B-437.112. Department of Commerce – Internet posting of summaries of incentive grants; format.**

In addition to the public database required by G.S. 143B-437.111, beginning January 1, 2012, and updated monthly thereafter, the Department of Commerce shall post on the Department's Internet Web site a summary of all discretionary incentive grants depicted in graphical dashboard format, as follows:

(1) Total number of projects completed or terminated since January 1, 2005, not meeting, within five percent (5%), and number above five percent (5%) of jobs created or jobs retained goals and by year for 2005, 2006, 2007, 2008, 2009, 2010, and 2011 and annually thereafter.

(2) Total number of projects completed or terminated since January 1, 2005, not meeting, within five percent (5%), and number above five percent (5%) of average wage goals and by year for 2005, 2006, 2007, 2008, 2009, 2010, and 2011 and annually thereafter.

(3) Total State funds and total local funds invested in completed or terminated projects since January 1, 2005, and by year for 2005, 2006, 2007, 2008, 2009, 2010, and 2011 and annually thereafter.

(4) Total jobs retained and jobs created from completed or terminated projects since January 1, 2005, and by year for 2005, 2006, 2007, 2008, 2009, 2010, and 2011 and annually thereafter.

(5) Total cost and cost per job created and per job retained including total State funds and local funds or contributions resulting from projects completed or terminated since January 1, 2005, and by year for 2005, 2006, 2007, 2008, 2009, 2010, and 2011 and annually thereafter.

(6) Total clawbacks or refunds received and any amounts owed but uncollected from the recipient from projects completed or terminated since January 1, 2005, and by year for 2005, 2006, 2007, 2008, 2009, 2010, and 2011 and annually thereafter.

(7) Total number and percentage of active grants made to ventures achieving the following percentages of the scheduled job creation or retained goal:

a. Greater than or equal to one hundred percent (100%).

b. From seventy-five percent (75%) to ninety-nine percent (99%).

c. From fifty percent (50%) to seventy-four percent (74%).

d. From one percent (1%) to forty-nine percent (49%).

e. Zero percent (0%).

(8) Total number and percentage of active grants made to ventures achieving the following percentages of the average wage goal:
a. Greater than or equal to one hundred percent (100%).
b. From seventy-five percent (75%) to ninety-nine percent (99%).
c. From fifty percent (50%) to seventy-four percent (74%).
d. From one percent (1%) to forty-nine percent (49%).
e. Zero percent (0%).

"**§ 143B-437.113. Reports.**

(a) By January 1, 2012, then quarterly thereafter, the Department of Commerce shall report in writing to the Joint Legislative Commission on Governmental Operations, the Program Evaluation Division, and the Fiscal Research Division on the information required by G.S. 143B-437.111(c).

(b) By October 1, 2011, and then quarterly thereafter, the Department of Commerce shall report to the General Assembly on any favorable or unfavorable trends in the achievement of job creation, retention, and wage goals and on any action taken on grantees where clawbacks are in force and actions planned.

(c) Reference by the Department of Commerce to any existing report where any required information is available but prepared for a different purpose or reference to information on file or available upon request will not satisfy requirements of this Part."

**REDUCE FUNDING TO THE STATE FAIR ENTERPRISE FUND TO FUND THE DEFENSE & SECURITY TECHNOLOGY ACCELERATOR**

**SECTION 14.2A.** Notwithstanding any other provision of this act, of the nonrecurring funds appropriated to the Department of Agriculture and Consumer Services' State Fair Enterprise Fund, the sum of seven hundred thousand dollars ($700,000) for the 2011-2012 fiscal year shall be allocated to the Commerce State-Aid to fund the Defense & Security Technology Accelerator.

**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:

...."

**NORTH CAROLINA WINERIES & TOURISM/OPERATING COMMITTEES**

**SECTION 14.3A.(a)** There is established an operating committee for the Vinifera Group and an operating committee for the Muscadines Group. The purpose of the operating committees is to promote North Carolina wineries and tourism related to the wineries. Each operating committee shall consist of five members, who shall be appointed by the Secretary of Commerce to serve two-year terms, which shall be staggered. The members appointed shall be chosen from among individuals who have education or experience in the wine industry or in the field of tourism. No member of an operating committee may serve for more than two consecutive terms. Initial terms shall commence September 1, 2011.

**SECTION 14.3A.(b)** Each operating committee shall meet at least twice each calendar year to discuss ways in which to promote and advertise North Carolina wineries and ways in which to improve, use, and distribute State maps showing winery locations. The Vinifera Group shall meet at the NC Shelton Badgett Viticulture Center at Surry Community College, and the Muscadines Group shall meet at Duplin Community College. Notwithstanding any other provision of law, committee members shall receive no salary, per diem, subsistence, travel reimbursement, or other stipend or reimbursement as a result of serving on their respective committees.

**SECTION 14.3A.(c)** Each operating committee shall elect from the membership of the committee a chair and vice-chair. Vacancies resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and

the term shall be for the balance of the unexpired term. A majority of the members of each committee shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of each committee shall be necessary for action to be taken by the committee.

**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.

**TRANSFER STATE PORTS AUTHORITY FROM DEPARTMENT OF COMMERCE TO DEPARTMENT OF TRANSPORTATION**

**SECTION 14.6.(a)** The statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the North Carolina State Ports Authority are transferred to the Department of Transportation with all of the elements of a Type I transfer as defined by G.S. 143A-6. 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-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.(f)** 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.(g)** 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.(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. 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. 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, the Governor shall appoint six members to the Authority, in addition to the Secretary of Commerce, 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.

**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, e-NC Authority, 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 twenty thousand dollars ($120,000) 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 twenty thousand dollars ($120,000) in State funds shall be used for the annual salary of any one employee of an entity named in subsection (a) of this section.

**WAKE FOREST INSTITUTE FOR REGENERATIVE MEDICINE/ PROFIT SHARING WITH STATE**

**SECTION 14.12.(a)** Prior to receiving any General Fund disbursements for the 2011-2013 biennium, the Wake Forest Institute for Regenerative Medicine (hereinafter "Institute") must enter into a memorandum of understanding with the Office of the Attorney General in which the Institute commits to do all of the following:

(1) Work with the Office of the Attorney General to craft a legal agreement that specifies the manner in which any profits from investments made with State funds shall be shared with the State. Included in the agreement shall be language which provides that (i) the Institute will give the State an equitable share of any revenues received from patents, royalties, licensing agreements, or other ancillary revenues which might be generated and (ii) the Institute shall return to the State all of the funds provided by the State to the Institute within a reasonable period of time. For purposes of this section, the terms "equitable share" and "reasonable period of time" shall be as determined by the Office of the Attorney General and the Institute.

(2) Negotiate the terms of the legal agreement in good faith.

(3) Submit the proposed legal agreement to the Joint Legislative Commission on Governmental Operations for review by January 15, 2012.

(4) Execute the legal agreement no later than 30 days after it is presented to the Joint Legislative Commission on Governmental Operations.

**SECTION 14.12.(b)** If the Institute fails to execute the legal agreement as provided in subdivision (a)(4) of this section, all disbursements to the Institute shall be suspended until the legal agreement has been executed.

**SECTION 14.12.(c)** The Office of the Attorney General shall consult with the Fiscal Research Division in crafting the memorandum of understanding and the legal agreement described in subsection (a) of this section.

**SECTION 14.12.(d)** The Institute shall submit a copy of the memorandum of understanding described in subsection (a) of this section to the Fiscal Research Division and the Department of Commerce prior to receiving any General Fund disbursements for the 2011-2013 biennium and shall submit a copy of the proposed legal agreement described in subsection (a) of this section to the Fiscal Research Division by January 15, 2012.

**SECTION 14.12.(e)** 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.(f)** Remaining allotments after September 1 shall not be released to the Institute if it does not satisfy the reporting requirements provided in subsection (e) of this section.

**SECTION 14.12.(g)** No more than one hundred twenty thousand dollars ($120,000) in State funds shall be used for the annual salary of any one employee of the Institute.

**SECTION 14.12.(h)** Notwithstanding any other provision of this act, the non-recurring appropriation to the Department of Commerce for Commerce State-Aid for the Institute under this act is decreased by the sum of three hundred ten thousand seventy-nine dollars ($310,079) for the 2011-2012 fiscal year.

**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.

**REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS ALLOCATIONS**

**SECTION 14.13.(a)** Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Partnership, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, North Carolina's Eastern Region Economic Development Partnership, and Carolinas Partnership, Inc.

**SECTION 14.13.(b)** Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:

(1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's development factor by the sum of the development factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "development factor" means a county's development factor as calculated under G.S. 143B-437.08; and

(2) Next, the Department shall subtract from funds allocated to the North Carolina's Eastern Region Economic Development Partnership the sum of one hundred seventy-four thousand eight hundred ninety dollars ($174,890) in the 2011-2012 fiscal year, which sum represents (i) the total interest earnings in the prior fiscal year on the estimated balance of the seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws and (ii) the total interest earnings in the prior fiscal year on loans made from the seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

(3) Next, the Department shall redistribute the sum of one hundred seventy-four thousand eight hundred ninety dollars ($174,890) in the 2011-2012 fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the development factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

**SECTION 14.13.(c)** No more than one hundred twenty thousand dollars ($120,000) in State funds shall be used for the annual salary of any one employee of a regional economic development commission.

**SECTION 14.13.(d)** The General Assembly finds that successful economic development requires the collaboration of the State, regions of the State, counties, and municipalities. Therefore, the regional economic development commissions are encouraged to seek supplemental funding from their county and municipal partners to continue and enhance their efforts to attract and retain business in the State.

**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 five hundred thousand dollars ($4,500,000) for each fiscal year in the 2011-2013 biennium shall be allocated as follows:

| | 2011-2012 | 2012-2013 |
|---|---|---|
| General Administration | $1,010,197 | $1,010,197 |
| Administration – Projects & Program Delivery | $732,113 | $732,113 |
| Communications & Public Information | $143,100 | $143,100 |
| Grant Program | $1,613,790 | $1,613,790 |
| Targeted Projects & Accelerated Initiatives | $1,000,800 | $1,000,800 |

**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 twenty thousand dollars ($120,000) 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 seventeen million five hundred fifty-one thousand seven hundred ten dollars ($17,551,710) for each fiscal year in the 2011-2013 biennium shall be allocated as follows:

| | 2011-2012 | 2012-2013 |
|---|---|---|
| Center Administration, Professional and Technical Assistance, & Oversight | $2,411,289 | $2,411,289 |
| Science & Technology Development | $4,095,000 | $4,095,000 |
| Centers of Innovation | $2,972,700 | $2,972,700 |
| Business and Technology Development | $2,880,000 | $2,880,000 |
| Education and Training | $1,413,000 | $1,413,000 |
| Ag Biotech Initiative | $1,642,221 | $1,642,221 |
| Economic and Industrial Development | $1,035,000 | $1,035,000 |
| Regional Offices and Statewide Development | $1,102,500 | $1,102,500 |

**SECTION 14.15.(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 14.15.(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 14.15.(d)** No more than one hundred twenty thousand dollars ($120,000) 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 five hundred eighty-three thousand six hundred ninety-one dollars ($3,583,691) for each year in the 2011-2013 biennium shall be allocated as follows:

| | 2011-2012 | 2012-2013 |
|---|---|---|
| Center Administration, Technical Assistance, & Oversight | $1,302,173 | $1,302,173 |
| Research and Demonstration Grants | $294,120 | $294,120 |
| Institute for Rural Entrepreneurship | $114,570 | $114,570 |
| Community Development Grants | $844,250 | $844,250 |
| Microenterprise Loan Program | $155,610 | $155,610 |
| Water/Sewer/Business Development Matching Grants | $701,955 | $701,955 |
| Statewide Water/Sewer Database | $ 79,523 | $ 79,523 |
| Agricultural Advancement Consortium | $ 91,490 | $ 91,490. |

**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 twenty thousand dollars ($120,000) 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 sixteen million five hundred five thousand seven hundred fifty-eight dollars ($16,505,758) for each year in the 2011-2013 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 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 eighty-seven thousand two hundred eighty dollars ($287,280) for each year in the 2011-2013 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.

## 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/STATEWIDE 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)** G.S. 7A-498.7(a) reads as rewritten:

"(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

| Defender District | Counties |
|---|---|
| 1 | Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans |
| 3A | Pitt |
| 3B | Carteret |
| 5 | New Hanover |
| 10 | Wake |
| 12 | Cumberland |
| 14 | Durham |
| 15B | Orange, Chatham |
| 16A | Scotland, Hoke |
| 16B | Robeson |
| 18 | Guilford |
| 21 | Forsyth |
| 26 | Mecklenburg |
| 27A | Gaston |
| 28 | Buncombe |
| 29B | Henderson, Polk, Transylvania |

~~After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be established. A legislative act is required in order to establish a new office or to abolish an existing office.~~"

**SECTION 15.16.(d)** Effective July 1, 2012, G.S. 7A-498.7, as amended by subsection (c) of this section, reads as rewritten:

"(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

| Defender District | Counties |
|---|---|
| 1 | Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans |
| 2 | Beaufort, Hyde, Martin, Tyrrell, Washington |
| ~~3A~~ 3 | Carteret, Craven, Pamlico, Pitt |
| ~~3B~~ | ~~Carteret~~ |
| 4 | Duplin, Jones, Onslow, Sampson |
| 5 | ~~New Hanover~~ New Hanover, Pender |
| 6 | Bertie, Halifax, Hertford, Northampton |
| 7 | Edgecombe, Nash, Wilson |
| 8 | Greene, Lenoir, Wayne |
| 9 | Caswell, Franklin, Granville, Person, Vance, Warren |
| 10 | Wake |
| 11 | Harnett, Johnston, Lee |
| 12 | Cumberland |
| 13 | Bladen, Brunswick, Columbus |
| 14 | Durham |
| ~~15B~~ 15 | ~~Orange,Chatham~~ Alamance, Chatham, Orange |
| ~~16A~~ 16 | ~~Scotland, Hoke~~ Hoke, Robeson, Scotland |
| ~~16B~~ | ~~Robeson~~ |
| 17 | Rockingham, Stokes, Surry |
| 18 | Guilford |
| 19A | Cabarrus, Rowan |
| 19B | Montgomery, Moore, Randolph |
| 20 | Anson, Richmond, Stanly, Union |
| 21 | Forsyth |
| 22 | Alexander, Davidson, Davie, Iredell |
| 23 | Alleghany, Ashe, Wilkes, Yadkin |
| 24 | Avery, Madison, Mitchell, Watauga, Yancey |
| 25 | Burke, Caldwell, Catawba |
| 26 | Mecklenburg |
| ~~27A~~ 27 | ~~Gaston~~ Cleveland, Gaston, Lincoln |
| 28 | Buncombe |
| ~~29B~~ 29 | Henderson, McDowell, Polk, Rutherford, Transylvania |
| 30 | Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain. |

The Office of Indigent Defense Services shall establish positions necessary to staff public defender offices using funds available in the Indigent Persons' Attorney Fee Fund."

**SECTION 15.16.(d)** Subsection (c) of this section becomes effective July 1, 2012. The remainder of this section becomes effective July 1, 2011.

**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.

**ELIMINATE SENTENCING SERVICES**

**SECTION 15.19.(a)** Article 61 of Chapter 7A of the General Statutes is repealed.

**SECTION 15.19.(b)** Notwithstanding any other provision of this act, the Sentencing Services Program of the Office of Indigent Defense Services is eliminated. No funds shall be taken from the Criminal Justice Partnership Program to restore or transfer the Sentencing Services program.

**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, any judicial district wishing to retain or establish a Trial Court Administrator position may petition the Administrative Office of the Courts for the position. The Administrative Office of the Courts will work with the senior resident superior court judge for each district seeking a Trial Court Administrator position to identify other positions or sources of funding within that judicial district to fund the position.

**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.

**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.** 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 be developed and ready for implementation by September 1, 2011.

**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 the lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing charge or two times the then-current Medicaid rate for any given service. The DOC shall have the right to audit any given provider to determine actual prevailing charge to ensure compliance with this provision.

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 accept inmates in the custody of the Department of Correction."

**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.(a)** 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."

**SECTION 18.12.(b)** The Department of Correction shall not close the Bladen Correctional Center. The Department shall identify equivalent savings through the closure of other prisons in the amount of the sum of one million three hundred fifty-eight thousand four hundred thirteen dollars ($1,358,413) for the 2011-2012 fiscal year and the sum of two million seven hundred sixteen thousand eight hundred twenty-five dollars ($2,716,825) for the 2012-2013 fiscal year.

## PART XIX. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

## CONSOLIDATE THE DEPARTMENT OF CORRECTION, THE DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, AND THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY 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.

**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 Department shall consist of five divisions 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 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 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: the State Highway Patrol, the Alcohol Law Enforcement Division, the Butner Public Safety Division, and the State Capitol Police Division. The head of the Division of Law Enforcement shall be a deputy secretary.

(4) The Division of Emergency Services, which shall consist of the following former divisions of the Department of Crime Control and Public Safety: the Division of Emergency Management and the National Guard. The head of the Division of Emergency Services shall be a deputy secretary.

(5) 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 Audit Section.
d. The Engineering and Facility Management Section.
e. The Purchasing Section.
f. The General Counsel Section.
g. The Human Resources Section.
h. The Research and Policy Section.
i. The Information Technology Section.
j. The Training Section.

(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.

"**§ 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 f. 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 Services."

**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."

**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 Prisons" 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.(o)** The following statutes are amended by deleting the language "Emergency Management Division" and "Division of Emergency Management" wherever it appears and substituting "Emergency Management Section" and by deleting the word "Division" wherever it appears when it refers to the Emergency Management Division and substituting "Section": G.S. 20-125, 104E-8, 113A-134.12, 143-215.94GG, 143B-499.7, Article 1 of Chapter 166A of the General Statutes, G.S. 166A-21, 166A-22, 166A-24, 166A-26, and 166A-60. In all other instances in which the term "Emergency Management Division" or "Division of Emergency Management" appears in the General Statutes, the Revisor of Statutes shall replace that term with "Emergency Management Section", and in all other instances in which the word "Division" is used to refer to the Emergency Management 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.

**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 is 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.

**SECTION 19.1.(w)** Division of Emergency Services. – 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.

**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. Part 3A of Article 11 of Chapter 143B of the General Statutes is recodified as Subpart C of Part 6 of Article 5A of Chapter 143B of the General Statutes, "Victims' Services Section", G.S. 143B-272.103 through G.S. 143B-272.104.

**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.(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.~~Section.

**"§ 143B-272.52. ~~Division of~~ Emergency Management Section of the Emergency Services Division 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 Section 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)** 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 Justice. The Department of Justice 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, reads as rewritten:

**"§ 114-16. 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 Bureau 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 Bureau 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 Bureau, and scientists and doctors now working for the State through its institutions and departments may be called upon by the Governor to aid the Bureau 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."

**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 ...."

**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.(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.(jj)** G.S. 122C-408, as rewritten by subsection (g) of this section, reads as rewritten:

**"§ 122C-408. Butner Public Safety ~~Division~~ Section of the Department of Public Safety; jurisdiction; fire and police district.**

(a) The Secretary of Public Safety may employ special police officers for the territory of the Butner Reservation. The Secretary of Public Safety shall contract with the Town of Butner to provide fire and police protection to those areas within the incorporated limits of the Town of Butner. The territorial jurisdiction of these officers shall consist of the property shown on a map produced May 20, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager and in the office of Director of the Butner Public Safety ~~Division~~ Section of the Department of Public Safety and such additional areas which are within the incorporated limits of the Town of Butner as shown on a map to be kept in the office of the Butner Town Manager and in the office of Director of the Butner Public Safety ~~Division~~ Section of the Department of Public Safety. The Secretary of Public Safety may organize these special police officers into a public safety department for that territory and may establish it as a division within that principal department as permitted by Chapter 143B of the General Statutes.

(b) After taking the oath of office required for law-enforcement officers, the special police officers authorized by this section shall have the authority of deputy sheriffs of Durham and Granville Counties in those counties respectively. Within the territorial jurisdiction stated in subsection (a) of this section, the special police officers have the primary responsibility to enforce the laws of North Carolina, the ordinances of the Town of Butner, and any rule applicable to the Butner Reservation adopted under authority of this Part or under G.S. 143-116.6 or G.S. 143-116.7 or under the authority granted any other agency of the State and also have the powers set forth for firemen in Articles 80, 82 and 83 of Chapter 58 of the General Statutes. Any civil or criminal process to be served on any individual confined at any State facility within the territorial jurisdiction described in subsection (a) of this section shall be forwarded by the sheriff of the county in which the process originated to the Director of the Butner Public Safety ~~Division.~~Section. Special police officers authorized by this section shall be assigned to transport any individual transferred to or from any State facility within the territorial jurisdiction described in subsection (a) of this section to or from the psychiatric service of the University of North Carolina Hospitals at Chapel Hill.

(c) The contract between the Town of Butner and the Department of Public Safety shall provide that:

(1) The Butner Public Safety ~~Division~~ Section of the Department of Public Safety shall provide the same level of service to the incorporated area known as the Town of Butner as provided to those areas of the Town of Butner served by Butner Public Safety on January 1, 2007;

(2) The Town of Butner shall pay to the State Treasurer, on or before May 1 of each year, for deposit in the General Fund an amount equal to the amount that actually would have been collected from real and personal property ad valorem taxes due January 5, 2007, in the area incorporated as the Town of Butner effective July 1, 2007, assuming a tax of twenty-five cents (25¢) per one hundred dollars ($100.00) valuation of all real and personal property in said area increased effective July 1 of each year by the increase in the percentage change in the Consumer Price Index published by the U.S. Department of Labor, Bureau of Labor Statistics, for the southeast region, all urban consumers (or if that data shall no longer be available, the closest equivalent substitute then in publication by the United States Government) for the previous year ended December 31st;

(3) If additional areas are added to the incorporated limits of the Town of Butner, the payments due under the contract shall be increased by an amount equal to the amount that actually would have been collected from real and personal property ad valorem taxes due January 5 of the year of incorporation of such area if said incorporation occurs on or before May 1 or the amount collected for the preceding year if said incorporation occurs prior to May 1 of the then current year assuming a tax of twenty-five cents (25¢) per one hundred dollars ($100.00) valuation of all real and personal property in said area and increased yearly as set out above; and

(4) The Town of Butner and the Department of Public Safety may by mutual agreement modify the amounts required to be paid by the Town of Butner pursuant to subdivisions (2) and (3) of this subsection."

**SECTION 19.1.(kk)** G.S. 122C-414, as rewritten by subsection (g) of this section, reads as rewritten:

"**§ 122C-414. Butner Fire and Police Commission.**

...

(b) The Butner Fire and Police Commission shall consist of seven members, three appointed by the Town of Butner, two appointed by the Secretary, one appointed by the Secretary of Public Safety, and one appointed by the Granville County Board of Commissioners. All members appointed by the Town of Butner shall reside within the Town of Butner or its extraterritorial jurisdiction or the Butner Reservation. All members appointed by the Secretary or the Secretary of Public Safety shall either work at or have responsibility for one of the State-run institutions located within the Butner Reservation or shall reside within the Town of Butner and its extraterritorial jurisdiction or the Butner Reservation. The Director of the Butner Public Safety ~~Division~~ Section of the Department of Public Safety shall serve as an ex officio member of the Butner Fire and Police Commission. No active member of the Butner Public Safety ~~Division~~ Section of the Department of Public Safety may serve on the Butner Fire and Police Commission.

(c) The Butner Fire and Police Commission has the following duties and responsibilities:

(1) To periodically review, and recommend changes to, the operational policy for the Butner Public Safety ~~Division~~ Section of the Department of Public Safety.

(2) To consult with the Secretary of the Department of Public Safety in the Department's hiring of the Director of the Butner Public Safety ~~Division~~ Section of the Department of Public Safety. Such consultation shall include, but not be limited to, the Commission reviewing and providing its comments to the Secretary of the Department of Public Safety on the credentials of the applicants for said position. In performing its functions under this subsection, the Commission members shall have the same access to the applicants' personnel records pursuant to Article 7, Chapter 126 of the General Statutes as the Secretary of the Department of Public Safety and shall be subject to the same restraints concerning the personnel information as set out in said article.

(3) To review and make recommendations to the Secretary of Public Safety concerning the recommended needs of the Butner Public Safety ~~Division~~ Section of the Department of Public Safety.

(4) To receive and forward citizen complaints received by the Commission concerning the Butner Public Safety ~~Division~~ Section of the Department of Public Safety to the Director of the Butner Public Safety ~~Division~~ Section of the Department of Public Safety and the Secretary of the Department of Public Safety as the Commission determines is appropriate.

(5) To perform all such other functions assigned to it by the General Assembly or the Secretary of the Department of Public Safety.

...."

**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 Governor's Crime Commission.**

~~(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~~ shall administer the State Law Enforcement Assistance Program and such additional related programs as may be established by or assigned to the Commission. 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 Commission;

(2) Preparing and revising statewide plans for adoption by the 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."

**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.

**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.

**PART XX. DEPARTMENT OF ADMINISTRATION**

**STATE ENTITIES TO USE MAIL SERVICE CENTER AND AGENCY FOR PUBLIC TELECOMMUNICATIONS**

**SECTION 20.1.(a)** G.S. 143-341(8) reads as rewritten:

"(8) General Services:

...

g. To establish and operate a mail service center that shall be used by all State ~~agencies other than the Employment Security Commission,~~ agencies, departments, and institutions, including The University of

North Carolina System, and in connection therewith and in the discretion of the Secretary, to do all things necessary in connection with the maintenance of the mail service center. The Secretary shall allocate and charge against the respective departments and agencies their proportionate parts of the cost of the maintenance of the mail service center. The Secretary shall develop a plan for the efficient operation of the center that meets the needs of State agencies, ensures timely delivery of mail, and ensures no loss of federal funds. The Employment Security Commission shall not be required to use the mail service center established by this sub-subdivision.

...."

**SECTION 20.1.(b)** 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, including The University of North Carolina 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.

**TRANSFER THE LOBBYING SECTION OF THE SECRETARY OF STATE AND THE CAMPAIGN FINANCE DIVISION OF THE STATE BOARD OF ELECTIONS TO THE STATE ETHICS COMMISSION**

**SECTION 20.6.(a)** The campaign finance functions of the State Board of Elections and the lobbying registration and enforcement functions of the Secretary of State are transferred to the State Ethics Commission, and the transfers shall have all the elements of a Type I transfer under G.S. 143A-6.

**SECTION 20.6.(b)** Any pending proceedings of the State Board of Elections concerning campaign finance law violations are transferred to the State Ethics Commission. Any pending proceedings of the Secretary of State concerning lobbying law violations are transferred to the State Ethics Commission.

**SECTION 20.6.(c)** G.S. 138A-10(a) is amended by adding a new subdivision to read:

"(a) In addition to other powers and duties specified in this Chapter, the Commission shall:

...

(14) Have general supervision over:

a. Lobbying laws, as set forth in Chapter 120C of the General Statutes.

b. Campaign finance regulation, including Articles 22A, 22B, 22C, 22D, 22E, 22F, 22G, 22H, 22J, 22M, and 25 of Chapter 163 of the General Statutes."

**SECTION 20.6.(d)** Chapter 120C of the General Statutes is amended by deleting "Secretary of State" every time it appears and substituting "State Ethics Commission".

**SECTION 20.6.(e)** G.S. 163-278 reads as rewritten:

"**§ 163-278. Duty of investigating and prosecuting violations of this Article.**

It shall be the duty of the ~~State Board of Elections~~ State Ethics Commission and the district attorneys to investigate any violations of this Article, and the Board and district attorneys are authorized and empowered to subpoena and compel the attendance of any person before them for the purpose of making such investigation. The ~~State Board of Elections~~ State Ethics Commission and the district attorneys are authorized to call upon the Attorney General to furnish assistance by the State Bureau of Investigation in making the investigations of such violations. The ~~State Board of Elections~~ State Ethics Commission shall furnish the district attorney a copy of its investigation. The district attorney shall initiate prosecution and prosecute any violations of this Article. The provisions of G.S. 163-278.28 shall be applicable to violations of this Article."

**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.

**REDUCE FUNDING FOR PED STAFF EXPANSION TO RESTORE FUNDING TO THE AID TO COUNTIES PROGRAM IN THE DIVISION OF VETERANS AFFAIRS**

**SECTION 20.8.(a)** Notwithstanding any other provision of this act, funds appropriated to expand the General Assembly's Program Evaluation Division shall be reduced by the sum of one hundred thirty-eight thousand dollars ($138,000) for each fiscal year of the 2011-2013 biennium and the number of positions to expand the Division shall be reduced from five to three.

**SECTION 20.8.(b)** Notwithstanding any other provision of this act, the reduction in funding to the Aid to Counties Program in the Department of Administration, Division of Veterans Affairs, shall be reduced by the sum of one hundred thirty-eight thousand dollars ($138,000) for each fiscal year of the 2011-2013 biennium.

**YOUTH ADVOCACY AND INVOLVEMENT OFFICE POSITION CHANGES**

**SECTION 20.9.** Notwithstanding any other provision of this act, the reduction in funding for the personnel in the Office of Youth Advocacy and Involvement Office is increased by $50,325 for both years of the 2011-2013 biennium with the change in positions eliminated and an increase in reduction to operating expenses. Restoring position number #6001406 Executive Director ($64,655) and substituting filled positions 60014503 Advocacy Specialist ($39,190) and 60014065 Administrative Officer II ($47,953), resulting in six positions being eliminated.

## 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 interest-bearing, 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 may establish out of existing unobligated funds, including lapsed salaries and unobligated special funds, an emergency reserve fund. 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.** 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. 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.

**PERSONNEL ADJUSTMENT AND IT REDUCTION**

**SECTION 25.3.** Notwithstanding any other provision of this act, of the six vacant positions eliminated in the Office of State Budget and Management, the Accounting Technician position #60008574 ($37,728) shall be substituted with State Budget Management Analyst position #60008609 ($71,925). Substitutions or additions relating to salaries and benefits shall be made as follows:

(1) Salaries ($420,363)
(2) Social Security ($32,158)
(3) Retirement ($44,180)
(4) Medical Insurance ($29,580)
(5) 531211 Salary Reserves ($6,774)."

**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.

**ELIMINATED POSITIONS IN VOTER REGISTRATION AND SYSTEMS**

**SECTION 26.2.** Notwithstanding any other provision of this act, of the 10 eliminated positions in the State Board of Elections' Voter Registration and Systems, the Elections Technician position (60088251 - $58,787) shall be substituted with Voting Systems Project Manager position (60088252 - $65,191).

## 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 | $1,996.5 million |
| For Fiscal Year 2014-2015 | $2,021.1 million |
| For Fiscal Year 2015-2016 | $2,040.5 million |
| For Fiscal Year 2016-2017 | $2,069.1 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 | $1,041.0 million |
| For Fiscal Year 2014-2015 | $1,097.5 million |
| For Fiscal Year 2015-2016 | $1,128.7 million |
| For Fiscal Year 2016-2017 | $1,122.8 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."

**STUDY SPONSORSHIP OPPORTUNITIES**

**SECTION 28.5.** The Department of Transportation shall study sponsorship opportunities that might be available to the Department to offset the operational costs of the Department, including, but not limited to, sponsorships of welcome centers, visitor centers, rest areas, ferry welcome centers, ferries, and Incident Management Assistance Patrols. The Department shall report to the Joint Legislative Transportation Oversight Committee no later than March 1, 2012, on the following:

(1) The current cost of the suggested activities to be sponsored.
(2) The potential receipts that could reasonably be collected through sponsorships.
(3) Suggested guidelines and process for selecting reputable sponsors.
(4) What sponsorships might look like once implemented, including mock-ups of potential sponsors' signage on materials, buildings, vehicles, vessels, or other locations.
(5) What statutory or regulatory changes may be necessary to effect the Department's proposed sponsorship changes.

**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) Five million one hundred sixty-nine thousand twenty dollars ($5,169,020) 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.

**STATE AID TO RAILROADS TRANSPARENCY**

**SECTION 28.12.** G.S. 136-44.20(d) is repealed.

**STATE AID TO SHORT-LINE RAILROADS**

**SECTION 28.13.** Article 2D of Chapter 136 is amended by adding a new section to read as follows:

"**§ 136-44.39. Department to provide State and federal financial assistance to short-line railroads.**

The Department of Transportation is authorized to provide assistance to short-line railroads to continue and enhance rail service in the State so as to assist in economic development and access to ports and military installations. Assistance under this section may involve both the Rail Industrial Access Program and the Short Line Infrastructure Access Program, as well as other innovative programs. Grants under this section shall not exceed fifty percent (50%) of the nonfederal share and must be matched by equal or greater funding from the applicant."

**STUDY RAIL CONNECTION BETWEEN WILMINGTON AND FAYETTEVILLE**

**SECTION 28.14.** The Department of Transportation, Rail Division, shall study the feasibility and cost of constructing a rail connection between Wilmington and Fayetteville. The Department of Transportation, Rail Division, shall report to the Joint Legislative Transportation Oversight Committee with its findings no later than March 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 this 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 Commission on Governmental Operations 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 Commission on Governmental Operations 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 Commission on Governmental Operations, 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 90 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 five million dollars ($5,000,000), then the Department's acceptance of funds shall be subject to approval of the project by an act of the General Assembly. If 60 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.

**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.

**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.

**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.

**STUDY EXEMPTING THE THREE NEWEST MODEL YEARS FROM EMISSIONS INSPECTIONS OF MOTOR VEHICLES**

**SECTION 28.24.(a)** The Department of Transportation, Division of Motor Vehicles, shall lead a study to exempt, for the three newest model years, the emissions inspection required for motor vehicles under G.S. 20-183.2(b). As part of this study, the Department of Environment and Natural Resources, Division of Air Quality, in coordination with the Department of Transportation, Division of Motor Vehicles, shall evaluate the potential impacts of exempting these motor vehicles on emissions levels and air quality. In evaluating these potential impacts, the Division of Air Quality shall consider all of the following:

(1) Whether North Carolina would be in jeopardy of the United States Environmental Protection Agency (USEPA) finding that the State failed to implement its State Implementation Plan; if so, what specific alternative programs would result in emissions reductions that would be equivalent to any increased emissions resulting from exempting these motor vehicles from emissions testing; and what approvals, demonstrations, documentation, or other requirements is the State subject to in order to comply with federal law and to assure that the State does not lose eligibility to secure federal transportation funds.

(2) Whether air quality standards would be violated based on (i) existing air quality standards adopted under Article 21B of Chapter 143 of the General Statutes and (ii) revised air quality standards, including a revised standard for ozone, that are currently being considered for adoption by the United States Environmental Protection Agency.

(3) Whether the State would be in jeopardy of being found to be out of conformity such that its State and local transportation plans would interfere with the State's ability to attain federal air standards, resulting in loss of future federal transportation funds.

(4) What new or amended rules would be necessary regarding any recommendation of this study and the time frame for adopting such new or amended rules.

(5) What fiscal impacts would result for motor vehicle owners, licensed inspection stations, the Department of Transportation, and the Department of Environment and Natural Resources.

(6) Any other issues pertinent to the study under this section.

**SECTION 28.24.(b)** No later than March 1, 2012, the Department of Transportation and Department of Environment and Natural Resources shall submit a joint report of the results of the study under this section, including the findings, recommendations, and any legislative or administrative proposals, to the Joint Legislative Transportation Oversight Committee, the Environmental Review Commission, the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the House Appropriations Subcommittee on Transportation, and the Senate Committee on Appropriations on Department of Transportation.

**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.

**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 POSITIONS**

**SECTION 28.28.(a)** The Department of Crime Control and Public Safety, State Highway Patrol, shall have management flexibility to achieve a savings of one million three hundred eighty thousand three hundred seventy dollars ($1,380,370), recurring, in the Patrol's administrative structure. 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.

**SECTION 28.28.(b)** The Commander of the State Highway Patrol, upon the approval of the Secretary of the Department of Crime Control and Public Safety, is authorized to eliminate a greater number of positions than that specified in the Committee Report on the Continuation, Expansion, and Capital Budget for fiscal year 2011-2012. In implementing the remaining reductions in force required by this act, the Commander shall not eliminate sworn law enforcement officer positions allocated for district-level traffic and commercial motor vehicle enforcement, unless the State Highway Patrol is incapable of otherwise implementing the reductions specified in this act. Reductions in force may include filled positions.

**SECTION 28.28.(c)** 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.

**HIGHWAY TRUST FUND MONEY FOR VISITOR CENTERS; SPECIAL REGISTRATION PLATES MONEY FOR VISITOR CENTERS**

**SECTION 28.30.(a)** G.S. 20-85.1(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 as follows:

(1) The first four hundred thousand dollars ($400,000) collected shall be credited to the Reserve for Visitor Centers in the Highway Fund.

(2) Any additional funds collected shall be credited to the Mobility Fund."

**SECTION 28.30.(b)** G.S. 20-79.7(c)(2) reads as rewritten:

"(2) From the funds remaining in the Special Registration Plate Account after the deductions in accordance with subdivision (1) of this subsection, there is annually appropriated from the Special Registration Plate Account the sum of ~~one million two hundred thousand dollars ($1,200,000)~~ one million three hundred thousand dollars ($1,300,000) to provide operating assistance for the Visitor Centers:

a. on U.S. Highway 17 in Camden County, ($100,000);
b. on U.S. Highway 17 in Brunswick County, ($100,000);
c. on U.S. Highway 441 in Macon County, ($100,000);
d. in the Town of Boone, Watauga County, ($100,000);
e. on U.S. Highway 29 in Caswell County, ($100,000);
f. on U.S. Highway 70 in Carteret County, ($100,000);
g. on U.S. Highway 64 in Tyrrell County, ($100,000);
h. at the intersection of U.S. Highway 701 and N.C. 904 in Columbus County, ($100,000);
i. on U.S. Highway 221 in McDowell County, ($100,000);
j. on Staton Road in Transylvania County, ($100,000);
k. in the Town of Fair Bluff, Columbus County, near the intersection of U.S. Highway 76 and N.C. 904, ~~($100,000); and~~ ($100,000);
l. on U.S. Highway 421 in Wilkes County, ~~($100,000).~~ ($100,000); and
m. at the intersection of Interstate 73 and Interstate 74 in Randolph County, ($100,000)."

**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 UNENCUMBERED TURNPIKE PROJECTS GAP FUNDS TO MOBILITY FUND**

**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 Mobility Fund.

**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 Mobility Fund, to be used only for urban loop projects within the Mobility Fund.

**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 8.2.** Section 28.7(b) of S.L. 2010-31 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.

**TRANSFER URBAN LOOPS PROGRAM TO THE MOBILITY FUND**

**SECTION 28.34.(a)** G.S. 136-17.2A(a) reads as rewritten:

"(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and both State and federal-aid funds expended under the Transportation Improvement Program, other than federal congestion mitigation and air quality improvement program funds appropriated to the State by the United States pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149, ~~funds expended on an urban loop project listed in G.S. 136-180,~~ funds from the federal government for the Appalachian Development Highway System, and funds received through competitive awards or discretionary grants through federal appropriations either for local governments, transportation authorities, transit authorities, or the Department, shall be distributed throughout the State in accordance with this section.

...."

**SECTION 28.34.(b)** G.S. 136-176(b)(2) reads as rewritten:

"(2) Twenty-five and five hundredths percent (25.05%) to ~~plan, design, and construct the urban loops described in G.S. 136-180~~ the Mobility Fund 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~~ the urban ~~loops.~~ loops listed in former G.S. 136-180."

**SECTION 28.34.(c)** G.S. 136-177.1 is repealed.

**SECTION 28.34.(d)** G.S. 136-178(a) reads as rewritten:

"(a) The Intrastate System is established to provide high-speed, safe travel service throughout the State. It connects major population centers both inside and outside the State and provides safe, convenient, through-travel for motorists. It is designed to support statewide growth and development objectives and to connect to major highways of adjoining states. All segments of the routes in the Intrastate System shall have at least four travel lanes except those for which projected traffic volumes and environmental considerations dictate fewer lanes. When warranted, segments of the Intrastate System shall have vertical separation or interchanges at crossings, more than four travel lanes, or bypasses. Access to a route in the Intrastate System is determined by travel service and economic considerations.

Funds allocated from the Trust Fund for the Intrastate System are primarily intended to be used to complete the projects listed in G.S. 136-179. If Intrastate Trust Funds assigned to a distribution region through the provisions of G.S. 136-17.2A cannot be used for projects listed in G.S. 136-179, then they may be used for projects on the following route segments or corridors:

...

Interstate routes or corridors designated by Congress or officially accepted onto the Interstate System by the United States Department of Transportation.

~~Any portion of an urban loop project, as described in G.S. 136-180, that has been certified by the Department as complete and is no longer eligible for funding from the urban loop allocation specified in G.S. 136-176(b)(2).~~

The Department of Transportation may add a route to the Intrastate System if the route is a multilane route and has been designed and built to meet the construction criteria of the Intrastate System projects. No funds may be expended from the Trust Fund on routes added by the Department."

**SECTION 28.34.(e)** G.S. 136-180 is repealed.

**SECTION 28.34.(f)** G.S. 136-184(a) reads as rewritten:

"(a) The Department of Transportation shall develop, and update annually, a report containing a completion schedule for all projects to be funded from the Trust Fund. The report shall include a separate schedule for the Intrastate System projects, the ~~urban loop~~ Mobility Fund projects, and the paving of unpaved State-maintained secondary roads that have a traffic vehicular equivalent of at least 50 vehicles a day. The annual update shall indicate the projects, or portions thereof, that were completed during the preceding fiscal year, any changes in the

original completion schedules, and the reasons for the changes. The Department shall submit the report and the annual updates to the Joint Legislative Transportation Oversight Committee."

**SECTION 28.34.(g)** G.S. 136-185 reads as rewritten:

"**§ 136-185. Maintenance reserve created in certain circumstances.**

If the Highway Trust Fund has not terminated but all contracts for the projects of the Intrastate System described in G.S. 136-179 have been let and the amount collected and allocated for the Intrastate System is enough to pay the contracts and retire any bonds issued under the State Highway Bond Act of 1996 for projects of the Intrastate System, all subsequent allocations of revenue for the Intrastate System shall be credited to a reserve account within the Trust Fund. Revenue in this reserve may be used only to maintain the projects of the Intrastate System.

~~If the Highway Trust Fund has not terminated but all contracts for the urban loops described in G.S. 136-180 have been let and the amount collected and allocated for the urban loops is enough to pay the contracts and retire any bonds issued under the State Highway Bond Act of 1996 for the urban loops, then all urban loops shall be considered a part of the Intrastate System, and all subsequent allocations of revenue for the urban loops shall be credited to the Intrastate account within the Trust Fund.~~"

**SECTION 28.34.(h)** G.S. 136-188 reads as rewritten:

"**§ 136-188. Use of North Carolina Mobility Fund.**

(a) The Department of Transportation shall use the Mobility Fund to fund transportation projects, selected by the Department, of statewide and regional significance that relieve congestion and enhance mobility across all modes of transportation. The Department of Transportation shall establish project selection criteria based on the provisions of this Article.

(b) The initial project funded from the Mobility Fund shall be the widening and improvement of Interstate 85 north of the Yadkin River Bridge.

(c) Funds transferred to the Mobility Fund under G.S. 136-176(b)(2) shall be subject to the project selection criteria under this Article but shall be used only for urban loop projects."

**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.~~

...."

## 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.

**LIMITED 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 employees of the judicial branch for local supplementation as authorized under G.S. 7A-300.1.

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, 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.** 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.

**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
"A" Teachers

| 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 | $3,749 |
| 4 | $3,394 | $3,801 |
| 5 | $3,442 | $3,855 |
| 6 | $3,590 | $4,021 |
| 7 | $3,744 | $4,193 |
| 8 | $3,892 | $4,359 |
| 9 | $4,034 | $4,518 |
| 10 | $4,148 | $4,646 |
| 11 | $4,201 | $4,705 |
| 12 | $4,255 | $4,766 |
| 13 | $4,310 | $4,827 |
| 14 | $4,364 | $4,888 |
| 15 | $4,420 | $4,950 |

| | | |
|---|---|---|
| 16 | $4,476 | $5,013 |
| 17 | $4,534 | $5,078 |
| 18 | $4,594 | $5,145 |
| 19 | $4,654 | $5,212 |
| 20 | $4,715 | $5,281 |
| 21 | $4,780 | $5,354 |
| 22 | $4,843 | $5,424 |
| 23 | $4,907 | $5,496 |
| 24 | $4,975 | $5,572 |
| 25 | $5,042 | $5,647 |
| 26 | $5,115 | $5,729 |
| 27 | $5,185 | $5,807 |
| 28 | $5,257 | $5,888 |
| 29 | $5,330 | $5,970 |
| 30 | $5,404 | $6,052 |
| 31 | $5,482 | $6,140 |
| 32 | $5,561 | $6,228 |
| 33 | $5,668 | $6,348 |
| 34+ | $5,781 | $6,475 |

**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.

**FURLOUGHS AUTHORIZED/PUBLIC SCHOOLS**

**SECTION 29.16.(a)** The General Assembly finds that local boards of education are under economic stress that requires they be granted flexibility in managing expenditures. Further, the General Assembly finds that the provisions of this section will assist local school boards to best serve communities.

**SECTION 29.16.(b)** Local boards of education may implement furloughs of State-funded public school employees to offset any LEA budgetary flexibility adjustment.

**SECTION 29.16.(c)** The following definitions apply in this section:

(1) Furlough. – A temporary period of leave from employment without pay that (i) is ordered by a local board of education and (ii) is not in connection with a demotion or other disciplinary action.

(2) Public school employee. – Any person employed by a local school administrative unit. The term includes public officers.

**SECTION 29.16.(d)** The provisions of Section 29.18 of this act apply to public school employees furloughed pursuant to this section.

**SECTION 29.16.(e)** Local school administrative units shall cooperate with the Department of Public Instruction in the implementation of a furlough, if required.

**SECTION 29.16.(f)** As soon as practicable, and no more than 30 calendar days from the effective date of this section, the State Board of Education shall adopt rules for the implementation of this section in accordance with G.S. 150B-21.1A, except that notwithstanding G.S. 150B-21.1A(d), those emergency rules may remain in effect until the expiration of this section. These rules shall be applied by local boards of education in designating the times public school employees may be subject to furlough. These rules shall provide, at a minimum, that:

(1) Employees who work only on instructional days shall not be subject to furlough.

(2) Employees who earn an annual salary of thirty thousand five hundred dollars ($30,500) or less shall not be subject to furlough.

(3) A furlough for other employees shall be for the same number of days for all such employees.

(4) No teacher shall be subject to a furlough on an instructional day or a protected workday.

(5) A local board of education shall have a public hearing and shall disclose the local school administrative unit's finances before the local board implements a furlough.

(6) A local school administrative unit may spread the salary or wage reduction for furloughed employees over the contract period in order to lessen the impact on the employees.

(7) All savings realized as a result of a furlough shall be used to offset any LEA budgetary flexibility adjustment.

(8) A county in which a local school administrative unit implements a furlough pursuant to this section shall not supplant existing local current expense funds for schools.

(9) Each local board of education shall report to the State Board of Education on the details of any furlough implemented by the local school administrative unit and certify that the furlough complied with the provisions of this section and the rules adopted by the State Board.

**SECTION 29.16.(g)** A furlough as implemented by this section does not constitute a demotion pursuant to Part 3 of Article 22 of Chapter 115C of the General Statutes or under any other personnel law or policy.

**SECTION 29.16.(h)** Notwithstanding G.S. 115C-273, 115C-285(b), 115C-302.1(h), and 115C-316(b), or any other provision of law, public school employees who are not paid out of State funds shall receive the same reduction in pay applicable to State-paid employees in the event a furlough is enacted by a local school administrative unit.

**SECTION 29.16.(i)** This section is effective when it becomes law and expires June 30, 2013.

**FURLOUGHS AUTHORIZED/UNC**

**SECTION 29.17.(a)** Findings. – The General Assembly finds that The University of North Carolina requires flexibility in managing personnel-related expenditures and that the provisions of this section will aid in the administration of personnel-related costs.

**SECTION 29.17.(b)** The President of The University of North Carolina may implement furloughs of university employees or delegate furlough authority to a chancellor of a constituent institution to offset any UNC management flexibility reduction.

**SECTION 29.17.(c)** Definitions. – The following definitions apply in this section:

(1) Furlough. – A temporary period of leave from employment without pay that (i) is ordered by the President of The University of North Carolina or a chancellor when delegated and (ii) is not in connection with a demotion or other disciplinary action.

(2) University employee. – Any permanent full-time, permanent part-time, or time-limited employee of The University of North Carolina, including employees exempt from the State Personnel Act under G.S. 126-5(c), 126-5(c1), 126-5(c7), and 126-5(c8). The term includes public officers.

**SECTION 29.17.(d)** The provisions of Section 29.18 of this act apply to university employees furloughed pursuant to this section.

**SECTION 29.17.(e)** Cooperation with The University of North Carolina – General Administration. – Constituent institutions shall cooperate with UNC General Administration in the implementation of furloughs, if required.

**SECTION 29.17.(f)** As soon as practicable, and no more than 30 calendar days from the effective date of this section, the Board of Governors of The University of North Carolina shall adopt policies for the implementation of this section to remain in effect until the expiration of this section. These policies shall be applied by the President and the constituent institutions in implementing a furlough of university employees. These policies shall provide, at a minimum, that:

(1) The President may establish a salary threshold below which university employees shall not be subject to furlough. In no event may any full-time university employee, prorated for any part-time employee, earning an annual salary of twenty-five thousand dollars ($25,000) or less be subject to furlough.

(2) The scheduling of any furlough period shall be at the discretion of the President or the chancellor of the constituent institution when delegated.

(3) Paid leave shall not be used to offset all or any portion of a furlough.

(4) If a holiday falls during the mandatory furlough period, the university employee must be paid for the holiday.

(5) All savings realized as a result of a furlough shall be used to offset the Management Flexibility Reduction for The University of North Carolina.

**SECTION 29.17.(g)** Upon delegation of furlough authority to a chancellor, the constituent institution shall develop a furlough plan to be approved by the President consistent with the policies adopted by the UNC Board of Governors. Access to approved furlough plans shall be provided to all affected employees.

**SECTION 29.17.(h)** Effective Date. – This section is effective when it becomes law and expires June 30, 2013.

**FURLOUGHS AUTHORIZED/NORTH CAROLINA COMMUNITY COLLEGE SYSTEM**

**SECTION 29.17A.(a)** Findings. – The General Assembly finds that the North Carolina Community College System requires flexibility in managing personnel-related expenditures and that the provisions of this section will aid in the administration of personnel-related costs.

**SECTION 29.17A.(b)** The President of the North Carolina Community College System (System President) may implement furloughs of community college employees or delegate furlough authority to a local system president of a system institution to offset any management flexibility reduction.

**SECTION 29.17A.(c)** Definitions. – The following definitions apply in this section:

(1) Community college employee. – Any permanent full-time, permanent part-time, or time-limited employee of the North Carolina Community College System. The term includes public officers.

(2) Furlough. – A temporary period of leave from employment without pay that (i) is ordered by the System President of the North Carolina Community College System or a local system president when delegated and (ii) is not in connection with a demotion or other disciplinary action.

**SECTION 29.17A.(d)** The provisions of Section 29.18 of this act apply to community college employees furloughed pursuant to this section.

**SECTION 29.17A.(e)** Cooperation with the North Carolina Community Colleges System Office. – System institutions shall cooperate with the North Carolina Community Colleges System Office in the implementation of furloughs, if required.

**SECTION 29.17A.(f)** As soon as practicable, and no more than 30 calendar days from the effective date of this section, the State Board of Community Colleges shall adopt policies for the implementation of this section to remain in effect until the expiration of this section. These policies shall be applied by the System President and the system institutions in implementing a furlough of community college employees. These policies shall provide, at a minimum, that:

(1) The System President may establish a salary threshold below which community college employees shall not be subject to furlough. In no event may any full-time community college employee, prorated for any part-time employee, earning an annual salary of twenty-five thousand dollars ($25,000) or less be subject to furlough.

(2) The scheduling of any furlough period shall be at the discretion of the System President or the local system president of a system institution when delegated.

(3) Paid leave shall not be used to offset all or any portion of a furlough.

(4) If a holiday falls during the mandatory furlough period, the community college employee must be paid for the holiday.

(5) All savings realized as a result of a furlough shall be used to offset the Management Flexibility Reduction for the North Carolina Community College System.

**SECTION 29.17A.(g)** Upon delegation of furlough authority to a local system president, the system institution shall develop a furlough plan to be approved by the System President consistent with the policies adopted by the State Board of Community Colleges. Access to approved furlough plans shall be provided to all affected employees.

**SECTION 29.17A.(h)** Effective Date. – This section is effective when it becomes law and expires June 30, 2013.

**BENEFITS PROTECTION FOR FURLOUGHED STATE GOVERNMENT EMPLOYEES AND PUBLIC SCHOOL PERSONNEL**

**SECTION 29.18.(a)** The following definitions apply in this section:

(1) Furlough. – A temporary period of leave from employment without pay that (i) is ordered or authorized by the Governor, the Chief Justice, the Legislative Services Commission, the Board of Governors of The University of North Carolina, the Board of the North Carolina Community College System, or a local school board and (ii) is not in connection with a demotion or any other disciplinary action.

(2) Public agency. – A State agency, department, or institution in the executive, legislative, or judicial 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 a public agency.

**SECTION 29.18.(b)** Notwithstanding any law to the contrary, if 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 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.(c)** This section holds harmless employees who are subject to furloughs to accomplish economies required by this act as to their retirement and other benefits that normally accrue as a result of employment. This section does not apply to a furlough within a public agency that is designed:

(1) To solely and selectively provide benefits to a public employee or a subset of public employees, or to extend or enhance benefits beyond those that normally accrue to a public employee as a result of employment.

(2) To allow the public agency to settle any claim against the public agency or to gain additional economies not specifically required by this act.

**SECTION 29.18.(d)** This section shall not be construed as authorizing furloughs.

**SECTION 29.18.(e)** Whenever the Governor, the Chief Justice, the Legislative Services Commission, the Board of Governors of The University of North Carolina, the Board of the North Carolina Community College System, or a local school board authorizes a furlough of public agency employees, the respective authorizing officer or entity 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 including the applicable reduction in salary and the date the reduction in salary will occur. Examples of other furlough specifics include one-day furlough per month for the next three months, five furlough days during the remainder of the fiscal year, et cetera.

(2) The positions affected, including all full-time, part-time, temporary and contractual positions, all nonessential personnel, all nonteaching positions, et cetera.

(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.
(4) Certification that the furlough is not in connection with a demotion or any other disciplinary action.
(5) Certification that the furlough is to accomplish economies specifically required by this act, including the specific budget provision or reduction the furlough is intended to address.
(6) Certification that the furlough is not related to the settlement of any claim against a public agency.

**SECTION 29.18.(f)** This section is effective when it becomes law.

**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 Proposal process to contract with a qualified consulting firm to perform this review and study. The study shall be completed in two phases and, at minimum, shall include all of the following:

(1) Phase I. –
a. 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.

b. 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.

c. 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.

d. 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. This evaluation should include recommendations as to whether these laws and policies should be continued or modified based upon human resource best practices.

e. 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.

f. 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.

g. Recommendations of how to evaluate and compare the value of employee fringe benefits.

(2) Phase II. –

a. Assessment of the validity of performance-based compensation plans.

b. 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.

c. Training recommendations for supervisors and managers regarding employee productivity and performance evaluation.

d. Recommendations to assure equity of compensation among public employees across government sectors.

e. 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, an interim report completed jointly by the Fiscal Research and Program Evaluation Divisions, or at their direction by the consultant hired to perform the review and study, shall be submitted to the 2012 Regular Session of the 2011 General Assembly. The interim report shall include all Phase I findings. The Fiscal Research and Program Evaluation Divisions, or consultant, shall report the Phase II findings and any other final results of its study including recommendations and legislative proposals to the 2013 General Assembly upon its convening.

**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 SEVERANCE EXPENDITURE RESERVE**

**SECTION 29.21.(a)** There is established in the Office of State Budget and Management a General Fund reserve budget code 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 this reserve 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 Section 2.1 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. 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 Office; or a local school administrative unit.

**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 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 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 seven hundred seventy-six dollars ($3,776) and (ii) non-Medicare-eligible employees and retirees – four thousand nine hundred sixty-two dollars ($4,962).

**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 – three thousand nine hundred eighty-one dollars ($3,981) and (ii) non-Medicare-eligible employees and retirees – five thousand two hundred thirty-two dollars ($5,232).

**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.

## 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-three million four hundred forty-nine thousand dollars ($23,449,000) in federal funds.

| | Name of Project | 2011-2012 |
|---|---|---|
| (1) | B. Everett Jordan Lake Water Supply Storage | $ 200,000 |
| (2) | Wilmington Harbor Maintenance | – |
| (3) | Morehead City Harbor Maintenance | 50,000 |
| (4) | Water Resources Planning in Support of Session Law 2010-143 | – |
| (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) | 1,225,000 |
| (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) | 275,000 |
| (18) | Princeville Flood Damage Reduction (50/50) | 100,000 |
| (19) | State-Local Projects | 500,000 |
| (20) | Agricultural Water Resources Assistance Program | 1,000,000 |
| **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.

However, fund availability shall not be used to fund the North Carolina International Terminal. 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) At least 60 days prior to preparing the Water Resources Development Plan, the Department shall provide information to appropriate county or municipal officials about the availability of Water Resources Development Funding and requirements to receive that funding."

**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 Historical Site | 2,600,000 |
| Department of Environment and Natural Resources | |
| Zoo – New Restrooms at Elephant/Rhino Exhibit | 300,000 |
| 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 |
| Repair & 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 improvements 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.

**SECTION 30.7.(b)** The capital improvements 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 improvements 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.

**PROHIBIT GENERAL FUND, HIGHWAY FUND, OR HIGHWAY TRUST FUND EXPENDITURES FOR THE NORTH CAROLINA INTERNATIONAL TERMINAL**

**SECTION 30.8.** Notwithstanding G.S. 136-253 and any other provision of law, no funds from the General Fund, Highway Fund, or Highway Trust Fund shall be used to fund the North Carolina International Terminal of the North Carolina State Ports Authority. This section does not apply to the use of agency receipts.

## PART XXXI. FEES

**EDUCATION/DRIVER EDUCATION REFORM**

**SECTION 31.1.(a)** Subsections (a), (b), and (b1) of G.S. 20-88.1 are recodified as subsections (a), (d), and (e), respectively, of a new section G.S. 115C-215.1, in Article 14 of Chapter 115C of the General Statutes to be entitled "Administration of driver education program by the Department of Public Instruction."

**SECTION 31.1.(b)** G.S. 20-11(b) reads as rewritten:

"(b) Level 1. – A person who is at least 15 years old but younger 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-215.1 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 31.1.(c)** G.S. 20-88.1, as amended by subsection (a) of this section, reads as rewritten:

"**§ 20-88.1. Driver education.**

(a) through (b1) Recodified.

(c) ~~All expenses~~ 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-215.1 shall be paid out of the Highway ~~Fund.~~ Fund based on an annual appropriation by the General Assembly.

(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 31.1.(d)** 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-215.1 for the program of driver education offered in the public schools."

**SECTION 31.1.(e)** G.S. 115C-215 is repealed.

**SECTION 31.1.(f)** G.S. 115C-215.1, as enacted by subsection (a) of this section, reads as rewritten:

"**§ 115C-215.1. Administration of driver education program by the Department of Public Instruction.**

(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,~~ State or are receiving instruction through a home school as provided in Part 3 of Article 39 of Chapter 115C of the General Statutes, 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.

(b) 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.~~ 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 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.

(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 31.1.(g)** 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).

(g) Fee for Instruction. – The local boards of education may charge each student participating in driver education a fee of up to seventy-five dollars ($75.00) to offset the costs of providing the training and instruction."

**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.

**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/REPEAL BOARD OF AGRICULTURE REVIEW OF FEE SCHEDULES**

**SECTION 31.6.** G.S. 106-6.1(b) is repealed.

**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 AND PESTICIDE TECHNICIAN IDENTIFICATION CARD 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."

**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."

**NER/ENVIRONMENT/STUDY FOOD AND LODGING FEES AND THEIR DISTRIBUTION BETWEEN THE STATE PROGRAM AND THE LOCAL PROGRAMS**

**SECTION 31.14.** The Fiscal Research Division of the North Carolina General Assembly must study the administration and financing of the State's food, lodging, and institution sanitation programs and rules. The Fiscal Research Division must report its findings to the chairs of the NER Appropriations Subcommittee and the Finance Committee on or before May 1, 2012. The study must include both of the following:

(1) The fee amount necessary to cover the cost of the State program and the actual operating costs of the local health departments.

(2) The most efficient manner to set, collect, and remit the fee between the State and local health departments.

**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/DIVERT PORTION OF DEED STAMP TAX REVENUE SOURCE FOR NATURAL HERITAGE TRUST FUND**

**SECTION 31.17.** 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 eight million dollars ($8,000,000) 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.

**NER/NATURAL RESOURCES/PARKS AND RECREATION TRUST FUND; ALLOCATION OF DEED STAMP TAX PROCEEDS CREDITED TO FUND**

**SECTION 31.18.(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 eight million dollars ($8,000,000) shall be used for the State Parks System for capital projects, repairs and renovations of park facilities, land acquisition, and to retire debt incurred for these purposes under Article 9 of Chapter 142 of the General Statutes;
(3) Up to four million two hundred thirty thousand dollars ($4,230,000) 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 seven hundred five thousand dollars ($705,000) shall be used for the Coastal and Estuarine Water Beach Access Program.

**SECTION 31.18.(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).

**NER/NATURAL RESOURCES/NEW FUNDING SOURCE FOR WILDLIFE RESOURCE COMMISSION OPERATING BUDGET**

**SECTION 31.20.(a)** G.S. 105-164.44B is repealed.

**SECTION 31.20.(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 eighteen million five hundred thousand dollars ($18,500,000) from the General Fund to fund its operating budget.

**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-four dollars and fifty cents ~~($100.50)~~($124.50) 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)~~one dollar ($1.00) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.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)~~one dollar ($1.00) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.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 one dollar ($1.00) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4, and ninety-five cents ($.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)~~one dollar ($1.00) 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)~~one dollar ($1.00) 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.

...

(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."

**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.

**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, except that the Board of Transportation shall maintain one untolled ferry route to any barrier island not accessible by a State-maintained road and shall not toll the Knotts Island Ferry.

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. In maintaining one untolled ferry route to any barrier island not accessible by a State-maintained road, as required by G.S. 136-82, as amended by this section, the Board of Transportation shall not toll any route to any barrier island not accessible by a State-maintained road that is untolled as of April 1, 2011.

**EFFECTIVE DATE OF THIS PART**

**SECTION 31.31.** Unless otherwise provided herein, this Part becomes effective July 1, 2011.

**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 N.C. House of Representatives Appropriations Committee Report on the Continuation, Expansion, and Capital Budgets dated April 28, 2011, which was distributed in the House of Representatives 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

Sen. Appropriations JPS — 5/11/11

**Name of Committee** — **Date**

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

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Gordon Keath | PCNC1 |
| Melissa Raddiff | Our Children's Place |
| Lno Rubbert | CYPC |
| Tom West | Eckerd Youth Alternatives, Inc. |
| Bill SHELTON | Summit House |
| W.L. BUZZ CRAYTON | Beaufort Partners Tax Parts Washington NC. |
| A.A. Adams | Victim Advocate |
| Jennifer Epperson | NC DOJ |
| Jay McL | SBI |
| | |
| | |

**VISITOR REGISTRATION SHEET**

Senate Justice & Public Safety

**Name of Committee**

**Date** 5-11-2011

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

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Gregg Stahl | NC DOC |
| John McMillan | MFAS |
| JEAN SAWAIRE | NCAJJDP |
| Tom Bennett | NCVAN |
| Kristy Overton | Conf of DAs |
| Peg Dowr | Conference of DAs |
| Thomas C. Caves, Jr. | NC Dept. of Crime Control & Public Safety |
| C. John LoFaro | NC Alcohol Law Enforcement |
| MARK SENTER | ALCOHOL LAW ENFORCEMENT |
| MARK BIBBS | BIBBS LAW OFFICE |
| Frank Rogers | NCDOC |

**VISITOR REGISTRATION SHEET**

Senate Justice & Public Safety

**Name of Committee** **Date** 5-11-2011

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

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Barbara Baker | NCDOC |
| Nicole Sullivan | NC DOC |
| NELS ROSELAND | NC DOJ |
| Mildred Spearman | AOC |
| Aaron Gallagher | OSBM |
| Cheryl Reed | OSBM |
| SUSAN BROOKS | IDS / OSS |
| Thomas Maher | IDS |
| Elisa Wolper | IDS |
| Esther Hall | NCLEAF |
| Mitch Leonard | Sean |

**SENATE APPROPRIATIONS SUBCOMMITTEE**
**ON JUSTICE AND PUBLIC SAFETY**
**Tuesday, May 24, 2011 at 8:30 AM**
**Room 415, Legislative Office Building**

**MINUTES**

The Senate Appropriations on Justice and Public Safety Committee was scheduled to meet at 8:30 AM on May 24, 2011 in Room 415 of the Legislative Office Building. Five Senators attended and Senator Thom Goolsby presided. A visitor registration sheet is attached and made part of these minutes.

Senator Thom Goolsby called the meeting to order at 8:35 AM and recognized the Pages and Sergeants-at-Arms. He noted that the purpose of this meeting was to review HB 200 and the Senate adjustment to the Justice and Public Safety Budget. An agenda is attached and made part of these minutes.

There were no remarks from Chairman Senator Harry Brown before moving to the presentation.

Senator Goolsby introduced Doug Holbrook of the JPS fiscal research division to review the Senate Appropriations Committee Substitute for Justice and Public Safety Section I – Judicial.

There were no questions.

Doug Holbrook followed up with review of Senate Appropriations Committee Substitute for Justice and Public Safety Section I – Judicial, Indigent Defense.

There were no questions.

Senator Goolsby introduced Kristine Leggett of the JPS fiscal research division to review Senate Appropriations Committee Substitute for Justice and Public Safety Section I – Justice.

There were no questions.

Senator Goolsby introduced Kristine Leggett of the JPS fiscal research division to review Senate Appropriations Committee Substitute for Justice and Public Safety Section I – Juvenile Justice & Delinquency Prevention.

There were no questions.

Senator Goolsby introduced John Poteat of the JPS fiscal research division to review Senate Appropriations Committee Substitute for Justice and Public Safety Section I – Correction.

There were no questions.

Senator Goolsby called back Kristine Leggett of the JPS fiscal research division to review Senate Appropriations Committee Substitute for Justice and Public Safety Section I – Crime Control and Public Safety.

There were no questions.

Senator Goolsby called back Doug Holbrook of the JPS fiscal research division to review Senate Appropriations Committee changes to HB 200, Part XV Judicial Department, and subsection 15.16.

There were no questions.

Senator Goolsby called back Doug Holbrook of the JPS fiscal research division to review Senate Appropriations Committee changes to HB 200, Part XV Judicial Department, and subsection 15.16.

There were no questions.

Senator Goolsby called back Doug Holbrook of the JPS fiscal research division to review Senate Appropriations Committee changes to HB 200, Part XV Judicial Department, and subsection 17.10.

There were no questions.

Senator Goolsby called back Kristine Leggett of the JPS fiscal research division to review Senate Appropriations Committee changes to HB 200, Part XV Judicial Department, and subsection 19.10. This review also correlated with a handout and made part of these minutes.

-Q. Sen. Jones: Who is second in command below the Chief Deputy Secretary's? A. Kristine Leggett: Will report back with the answer.

Senator Goolsby called back Doug Holbrook of the JPS fiscal research division to review Senate Appropriations Committee changes to court cost increases. This review also correlated with a handout and made part of these minutes.

There were no questions.

Kristine Leggett returned to discuss the amendment process for the full chairs consideration.

Senator Goolsby asked if there were any questions and/or comments from the committee. With no questions/comments, Senator Goolsby adjourned the meeting at 9:10.

Senator Thom Goolsby, Presiding Chair

Morgan Beam, Committee Clerk

Principal Clerk ____
Reading Clerk ____

# SENATE
## NOTICE OF COMMITTEE MEETING
## AND
## BILL SPONSOR NOTICE

The Senate Committee on **Appropriations on Justice and Public Safety** will meet at the following time:

| DAY | DATE | TIME | ROOM |
|---|---|---|---|
| Tuesday | May 24, 2011 | 8:30 AM | 415 LOB |

The following will be considered:

| BILL NO. | SHORT TITLE | SPONSOR |
|---|---|---|

Senator Harry Brown, Co-Chair
Senator Thom Goolsby, Co-Chair

**SENATE APPROPRIATIONS SUBCOMMITTEE ON JUSTICE AND PUBLIC SAFETY**
**Room 415 Legislative Office Building**

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

## I. CALL TO ORDER

Chairs: Senator Thom Goolsby, Presiding
Senator Harry Brown

## II. PRESENTATIONS

Opening Remarks by Chairs

PCS for H.B. 200 – The Appropriations Act of 2011
*Fiscal Research Staff*

## III. OTHER BUSINESS:

Next meetings:

## IV. ADJOURNMENT

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**Senate Appropriations Subcommittee on JPS**
Sen. Brown (Chair)
Sen. Goolsby (Chair)
Sen. Jones (Vice Chair)
Sen. Soucek (Vice Chair),
Sen. Clodfelter, Sen. East, Sen. Newton

**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.

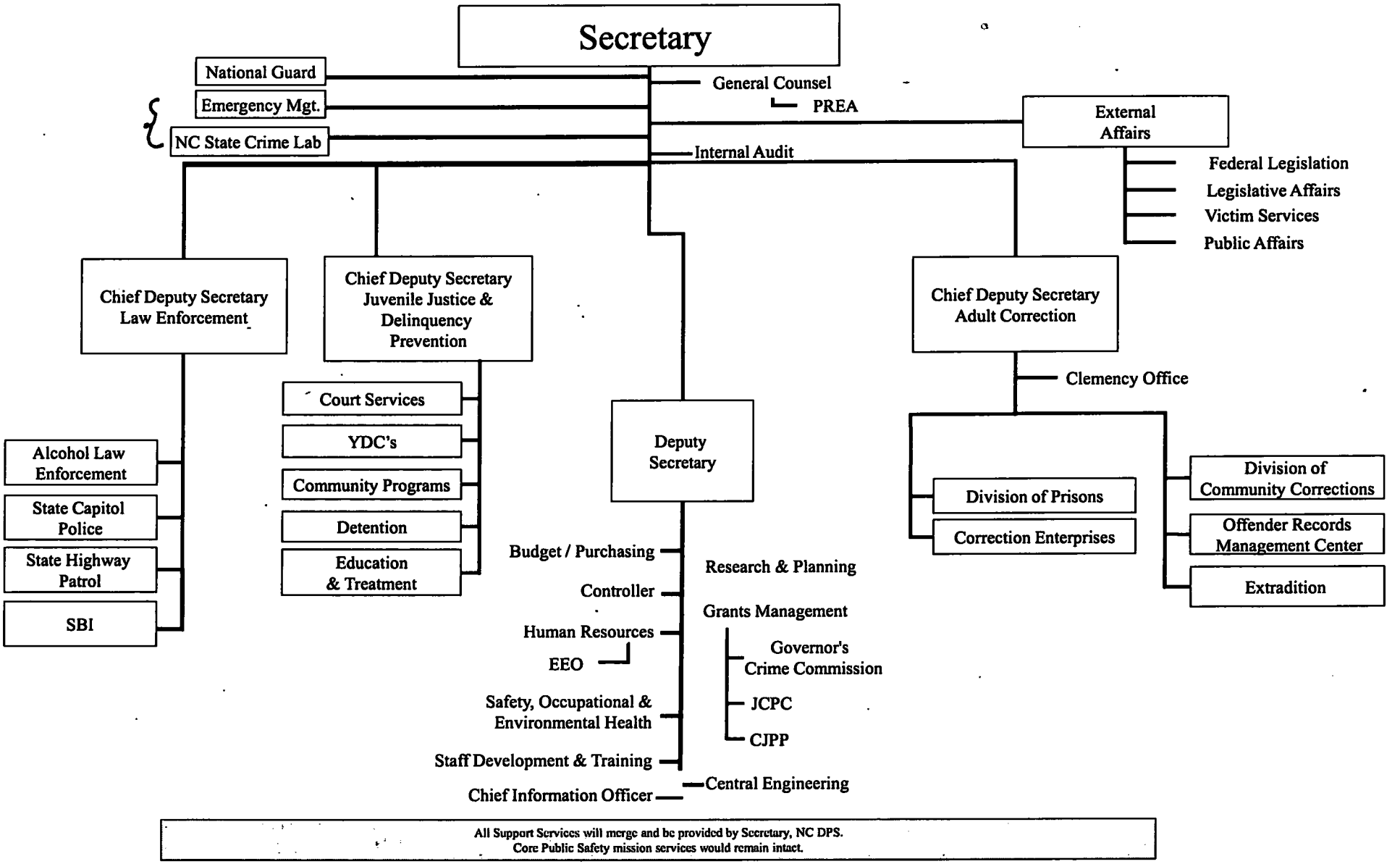
6. Amendments are not allowed where funding for an item comes from statewide reserves.

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.

# North Carolina
# Department of Public Safety




All Support Services will merge and be provided by Secretary, NC DPS.
Core Public Safety mission services would remain intact.

## VISITOR REGISTRATION SHEET

Sen Appr. Sub Comm Jus. & Public Safety
**Name of Committee**

**Date** 5-24-2011

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

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Sabrina Lashure | Action For Children NC |
| Jellington Scott | NCSHP |
| Scott Hunter | State Capitol Police |
| J Carmichael | CCPS / Victims Comp |
| Jon Bennett | NCVAN |
| Peg Dorer | Conf of DAs |
| Thomas C. Caves, Jr. | NC Dept. of Crime Control & Public Safety |
| Amy Baron | NCACC |
| Lianne Jones | Pretrial Res. Ctr. |
| Kathy Johnson | Sentencing Services |

## VISITOR REGISTRATION SHEET

Sen Appr Sub - Justice & Public Safety 5-24-2011

Name of Committee Date

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

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Carolyn Bidwell | OSS |
| Nicole Sullivan | NC DOC |
| J Lancaster | DOC |
| Frank Rogers | DOC |
| Barbara Baker | DOC |
| Tim Hinnant | CCPS |
| Barbara Moore | Conf of Clerks of Sup Ct |
| Norris Tolson | Wake Clerk of Superior Court |
| Niels Rasmussen | NC DOJ |
| Fred Aikens | The Aikens' Group LLC |

## Committee Sergeants at Arms

**NAME OF COMMITTEE** Appr Sub - Justice & Public Safety

**DATE:** 5-24-2011 **Room:** 5-24-2011

### House Sgt-At Arms:

1. **Name:** _____
2. **Name:** _____
3. **Name:** _____
4. **Name:** _____
5. **Name:** _____

### Senate Sgt-At Arms:

1. **Name:** Chester White
2. **Name:** Steve Wilson
3. **Name:** _____
4. **Name:** _____
5. **Name:** _____

## VISITOR REGISTRATION SHEET

Sen App. Ib Justice & Public Safety
Name of Committee

Date
5-24-2011

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

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Mitch Leonard | SEANC |
| Esther Hall | NCLEAF |
| Tom Maher | IDS |
| SUSAN BROOKS | IDS/OSS |
| Elisa Wolper | IDS |
| Jane Volland | GAL volunteer |
| Melissa Radcliff | Our Children's Place |
| Aaron Gallagher | OSBM |
| Cheryl Reed | OSBM |
| Sarah Preston | ACLU-NC |

## VISITOR REGISTRATION SHEET

Sen Appr Sub - Justice & Public Safety 5-24-2011

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

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

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Bill SHELTON | Summit House |
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## VISITOR REGISTRATION SHEET

Sen Appr Sub - Justice & Pub Safety — 5-24-2011

Name of Committee — Date

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

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Alex Miller | KLG |
| Gregg Stahl | NCAOC |
| Tim KENT | NC Beer & Wine Wholesalers |
| Andrew Cagle | NC Sheriffs' Assn. |
| JEAN SANDAIRE | NC BJJDP |
| Mike Mason | NCBA |
| Mildred Spearman | NCAOC |
| John Smith | AOC |
| | |
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| | |

ATTACHMENT 4

# VISITOR REGISTRATION SHEET

Sen. App. Sub Justice & Public Safety
Name of Committee

Date
1-24-2011

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

| NAME | FIRM OR AGENCY AND ADDRESS |
|---|---|
| Kira Mintacre | DOJ |
| Heather Petrovich | DOJ |
| Jennifer Epperson | NC DOJ |
| John Dorman | CCPS - NCEM |
| Meghan Brown | Gov. Perdue |
| Tom West | Eckerd Youth Alternatives, Inc |
| Rudy Rudisill | CCPS |
| John Lesford | NC Alcohol Law Enforcement |
| Wayne | BPS / CCPS |
| Barry Hull | NCNG |
| Lucy Davis | CCPS CAP Division |

# PAGES ATTENDING

COMMITTEE: Approps. on Justice & Pub. Safety ROOM: 415

DATE: 5-24 TIME: 8:30

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

| Page Name | Hometown | Sponsoring Senator |
|---|---|---|
| 1 André Elliott | Goldsboro | Pate |
| 2 J.D. Greco | Wrightsville Beach | Goolsby |
| 3 | | |
| 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.**